

**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, and 20115 (MCL 333.2690, 333.2803, 333.2848, 333.2854, 333.9141, 333.10102, 333.16221, 333.16226, 333.16245, 333.16299, and 333.20115), section 2690 as amended by 2016 PA 386, section 2803 as amended by 2020 PA 54, sections 2848 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~~

1 ~~purpose other than to increase the probability of a live birth, to~~
2 ~~preserve the life or health of the child after live birth, or to~~
3 ~~remove a fetus that has died as a result of natural causes,~~
4 ~~accidental trauma, or a criminal assault on the pregnant woman.~~
5 ~~Elective abortion does not include any of the following:~~

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

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

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

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

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

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

20 (ii) A private physician practice, professional corporation, or
21 freestanding surgical outpatient facility licensed under article
22 17, that is owned or operated by the physician and in which an
23 ~~elective~~ abortion is performed.

24 (iii) A private physician practice, professional corporation, or
25 freestanding surgical outpatient facility licensed under article
26 17, that employs or contracts with the physician to perform an
27 ~~elective~~ abortion.

28 Sec. 2803. (1) "Abortion" means ~~that term as defined in~~
29 ~~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 ~~(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.~~ **a medical treatment that is**
29 **intended to terminate a diagnosable intrauterine pregnancy for a**

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

5 (f) "Disinterested witness" means a witness who is not a
6 spouse, child, parent, sibling, grandchild, grandparent, or
7 guardian of or other adult who exhibited special care and concern
8 for the individual who makes, amends, revokes, or refuses to make
9 an anatomical gift. The term does not include a person to which an
10 anatomical gift could pass under section 10111.

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

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

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

19 (j) "Driver license" means an operator's or chauffeur's
20 license or permit issued to an individual by the secretary of state
21 under chapter III of the Michigan vehicle code, 1949 PA 300, MCL
22 257.301 to 257.329, for that individual to operate a vehicle,
23 whether or not conditions are attached to the license or permit.

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

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

29 (m) "Guardian" means a person appointed by a court to make

1 decisions regarding the support, care, education, health, or
2 welfare of an individual. The term does not include a guardian ad
3 litem.

4 (n) "Hospital" means a facility licensed as a hospital under
5 the law of any state or a facility operated as a hospital by the
6 United States, a state, or a subdivision of a state.

7 (o) "Identification card" means an official state personal
8 identification card issued by the secretary of state under 1972 PA
9 222, MCL 28.291 to 28.300.

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

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

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

15 (s) "Organ procurement organization" means a person certified
16 or recertified by the ~~secretary~~**Secretary** of the United States
17 ~~department of health and human services~~**Department of Health and**
18 **Human Services** as a qualified organ procurement organization under
19 42 USC 273(b).

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

22 (u) "Person" means an individual, corporation, business trust,
23 estate, trust, partnership, limited liability company, association,
24 joint venture, public corporation, government or governmental
25 subdivision, agency, or instrumentality or any other legal or
26 commercial entity.

27 (v) "Physician" means an individual authorized to practice
28 medicine or osteopathic medicine and surgery under the law of any
29 state.

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

3 (x) "Prospective donor" means an individual who is dead or
4 near death and has been determined by a procurement organization to
5 have a body part that could be medically suitable for
6 transplantation, therapy, research, or education. The term does not
7 include an individual who has made a refusal.

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

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

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

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

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

23 (i) Executes or adopts a tangible symbol.

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

26 (dd) "State" means a state of the United States, the District
27 of Columbia, Puerto Rico, the United States Virgin Islands, or any
28 territory or insular possession subject to the jurisdiction of the
29 United States.

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

5 (ff) "Tissue" means a portion of the human body other than an
6 organ or an eye. The term does not include blood unless the blood
7 is donated for the purpose of research or education.

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

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

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

27 (a) Except as otherwise specifically provided in this section,
28 a violation of general duty, consisting of negligence or failure to
29 exercise due care, including negligent delegation to or supervision

1 of employees or other individuals, whether or not injury results,
2 or any conduct, practice, or condition that impairs, or may impair,
3 the ability to safely and skillfully engage in the practice of the
4 health profession.

5 (b) Personal disqualifications, consisting of 1 or more of the
6 following:

7 (i) Incompetence.

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

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

14 (iv) Declaration of mental incompetence by a court of competent
15 jurisdiction.

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

22 (vi) Lack of good moral character.

23 (vii) Conviction of a criminal offense under section 520e or
24 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and
25 750.520g. A certified copy of the court record is conclusive
26 evidence of the conviction.

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

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

5 (x) Final adverse administrative action by a licensure,
6 registration, disciplinary, or certification board involving the
7 holder of, or an applicant for, a license or registration regulated
8 by another state or a territory of the United States, by the United
9 States military, by the federal government, or by another country.
10 A certified copy of the record of the board is conclusive evidence
11 of the final action.

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

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

19 (xiii) Conviction of a criminal offense under section 83, 84,
20 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal
21 code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321,
22 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the
23 court record is conclusive evidence of the conviction.

24 (xiv) Conviction of a violation of section 136 or 136a of the
25 Michigan penal code, 1931 PA 328, MCL 750.136 and 750.136a. A
26 certified copy of the court record is conclusive evidence of the
27 conviction.

28 (xv) Conviction of a violation of section 90 of the Michigan
29 penal code, 1931 PA 328, MCL 750.90, or a violation of a state or

1 federal crime that is substantially similar to the violation
2 described in this subparagraph. A certified copy of the court
3 record is conclusive evidence of the conviction.

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

5 (i) Fraud or deceit in obtaining or renewing a license or
6 registration.

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

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

10 (iv) Obtaining, possessing, or attempting to obtain or possess
11 a controlled substance or a drug as **that term is** defined in section
12 7105 without lawful authority; or selling, prescribing, giving
13 away, or administering drugs for other than lawful diagnostic or
14 therapeutic purposes.

15 (d) Except as otherwise specifically provided in this section,
16 unethical business practices, consisting of 1 or more of the
17 following:

18 (i) False or misleading advertising.

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

22 (iii) Fraud or deceit in obtaining or attempting to obtain third
23 party reimbursement.

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

26 (i) Misrepresentation to a consumer or patient or in obtaining
27 or attempting to obtain third party reimbursement in the course of
28 professional practice.

29 (ii) Betrayal of a professional confidence.

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

3 (iv) Either of the following:

4 (A) A requirement by a licensee other than a physician or a
5 registrant that an individual purchase or secure a drug, device,
6 treatment, procedure, or service from another person, place,
7 facility, or business in which the licensee or registrant has a
8 financial interest.

9 (B) A referral by a physician for a designated health service
10 that violates 42 USC 1395nn or a regulation promulgated under that
11 section. For purposes of this subdivision, 42 USC 1395nn and the
12 regulations promulgated under that section as they exist on June 3,
13 2002 are incorporated by reference. A disciplinary subcommittee
14 shall apply 42 USC 1395nn and the regulations promulgated under
15 that section regardless of the source of payment for the designated
16 health service referred and rendered. If 42 USC 1395nn or a
17 regulation promulgated under that section is revised after June 3,
18 2002, the department shall officially take notice of the revision.
19 Within 30 days after taking notice of the revision, the department
20 shall decide whether or not the revision pertains to referral by
21 physicians for designated health services and continues to protect
22 the public from inappropriate referrals by physicians. If the
23 department decides that the revision does both of those things, the
24 department may promulgate rules to incorporate the revision by
25 reference. If the department does promulgate rules to incorporate
26 the revision by reference, the department shall not make any
27 changes to the revision. As used in this sub-subparagraph,
28 "designated health service" means that term as defined in 42 USC
29 1395nn and the regulations promulgated under that section and

1 "physician" means that term as defined in sections 17001 and 17501.

2 (v) For a physician who makes referrals under 42 USC 1395nn or
 3 a regulation promulgated under that section, refusing to accept a
 4 reasonable proportion of patients eligible for Medicaid and
 5 refusing to accept payment from Medicaid or Medicare as payment in
 6 full for a treatment, procedure, or service for which the physician
 7 refers the individual and in which the physician has a financial
 8 interest. A physician who owns all or part of a facility in which
 9 the physician provides surgical services is not subject to this
 10 subparagraph if a referred surgical procedure the physician
 11 performs in the facility is not reimbursed at a minimum of the
 12 appropriate Medicaid or Medicare outpatient fee schedule, including
 13 the combined technical and professional components.

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

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

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

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

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

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

3 (i) Failure to comply with a subpoena issued pursuant to this
4 part, failure to respond to a complaint issued under this article,
5 article 7, or article 8, failure to appear at a compliance
6 conference or an administrative hearing, or failure to report under
7 section 16222(1) or 16223.

8 (j) Failure to pay an installment of an assessment levied
9 under the insurance code of 1956, 1956 PA 218, MCL 500.100 to
10 500.8302, within 60 days after notice by the appropriate board.

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

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

14 ~~(m) A violation of section 17015, 17015a, 17017, 17515, or~~
15 ~~17517.~~

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

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

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

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

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

21 (r) ~~(s)~~ A violation of the medical records access act, 2004 PA
22 47, MCL 333.26261 to 333.26271.

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

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

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

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

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

1 **(x)** ~~(y)~~—A violation of section 17754a.

2 **(y)** ~~(z)~~—Beginning January 1, 2021, a violation of section
3 24507 or 24509.

4 Sec. 16226. (1) After finding the existence of 1 or more of
5 the grounds for disciplinary subcommittee action listed in section
6 16221, a disciplinary subcommittee shall impose 1 or more of the
7 following sanctions for each violation:

| <u>Violations of Section 16221</u> | <u>Sanctions</u> |
|--|-----------------------------------|
| 8 Subdivision (a), (b) (i), | Probation, limitation, denial, |
| 9 (b) (ii), (b) (iii), (b) (iv), | suspension, revocation, |
| 10 (b) (v), (b) (vi), (b) (vii), | permanent revocation, |
| 11 (b) (ix), (b) (x), (b) (xi), | restitution, or fine. |
| 12 or (b) (xii) | |
| 13 Subdivision (b) (viii) | Revocation, permanent revocation, |
| 14 | or denial. |
| 15 Subdivision (b) (xiii) | Permanent revocation |
| 16 | for a violation described in |
| 17 | subsection (5); otherwise, |
| 18 | probation, limitation, denial, |
| 19 | suspension, revocation, |
| 20 | restitution, or fine. |
| 21 | |
| 22 Subdivision (b) (xiv) or | Permanent revocation. |
| 23 (b) (xv) | |
| 24 Subdivision (c) (i) | Denial, revocation, suspension, |
| 25 | |
| 26 | |
| 27 | |
| 28 | |

1 probation, limitation, or fine.
2 Subdivision (c) (ii) Denial, suspension, revocation,
3 restitution, or fine.
4 Subdivision (c) (iii) Probation, denial, suspension,
5 revocation, restitution, or fine.
6 Subdivision (c) (iv) Fine, probation, denial,
7 or (d) (iii) suspension, revocation, permanent
8 revocation, or restitution.
9 Subdivision (d) (i) Reprimand, fine, probation,
10 or (d) (ii) denial, or restitution.
11 Subdivision (e) (i), Reprimand, fine, probation,
12 (e) (iii), (e) (iv), (e) (v), limitation, suspension,
13 (h), or ~~(s)~~ (r) revocation, permanent revocation,
14 denial, or restitution.
15 Subdivision (e) (ii) Reprimand, probation, suspension,
16 or (i) revocation, permanent
17 revocation, restitution,
18 denial, or fine.
19 Subdivision (e) (vi), Probation, suspension,
20 revocation,
21 (e) (vii), or (e) (viii) limitation, denial,
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- 1 restitution, or fine.
- 2 Subdivision (f) Reprimand, denial, limitation,
- 3 probation, or fine.
- 4 Subdivision (g) Reprimand or fine.
- 5 Subdivision (j) Suspension or fine.
- 6 Subdivision (k), ~~(p)~~ **(o)**, Reprimand, probation, suspension,
- 7 or ~~(r)~~ **(q)** revocation, permanent revocation,
- 8 or fine.
- 9 Subdivision (l) Reprimand, denial, or
- 10 limitation.
- 11 Subdivision ~~(m) or (o)~~ **(n)** Denial, revocation, restitution,
- 12 probation, suspension,
- 13 limitation, reprimand, or fine.
- 14 Subdivision ~~(n)~~ **(m)** Revocation or denial.
- 15 Subdivision ~~(q)~~ **(p)** Revocation.
- 16 Subdivision ~~(t)~~ **(s)** Revocation, permanent revocation,
- 17 fine, or restitution.
- 18 Subdivision ~~(u)~~ **(t)** Denial, revocation, probation,
- 19
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1 suspension, limitation,
2 reprimand,
3 or fine.

4 Subdivision ~~(v) or (x)~~ **(u)** or Probation, limitation, denial,
5 **(w)**

6 fine, suspension, revocation, or
7 permanent revocation.

8 Subdivision ~~(w)~~ **(v)** Denial, fine, reprimand,
9 probation, limitation,
10 suspension, revocation, or
11 permanent revocation.

12 Subdivision ~~(y)~~ **(x)** Subject to subsection (7),
13 fine.

14 Subdivision ~~(z)~~ **(y)** Fine.

15 (2) Determination of sanctions for violations under this
16 section must be made by a disciplinary subcommittee. If, during
17 judicial review, the court of appeals determines that a final
18 decision or order of a disciplinary subcommittee prejudices
19 substantial rights of the petitioner for 1 or more of the grounds
20 listed in section 106 of the administrative procedures act of 1969,
21 MCL 24.306, and holds that the final decision or order is unlawful
22 and is to be set aside, the court shall state on the record the
23 reasons for the holding and may remand the case to the disciplinary
24 subcommittee for further consideration.

25 (3) A disciplinary subcommittee may impose a fine in an amount
26 that does not exceed \$250,000.00 for a violation of section
27
28
29

1 16221(a) or (b). A disciplinary subcommittee shall impose a fine of
 2 at least \$25,000.00 if the violation of section 16221(a) or (b)
 3 results in the death of 1 or more patients.

4 (4) A disciplinary subcommittee may require a licensee or
 5 registrant or an applicant for licensure or registration who has
 6 violated this article, article 7, or article 8 or a rule
 7 promulgated under this article, article 7, or article 8 to
 8 satisfactorily complete an educational program, a training program,
 9 or a treatment program, a mental, physical, or professional
 10 competence examination, or a combination of those programs and
 11 examinations.

12 (5) A disciplinary subcommittee shall impose the sanction of
 13 permanent revocation for a violation of section 16221(b) (xiii) if the
 14 violation occurred while the licensee or registrant was acting
 15 within the health profession for which the licensee or registrant
 16 was licensed or registered.

17 (6) Except as otherwise provided in subsection (5) and this
 18 subsection, a disciplinary subcommittee shall not impose the
 19 sanction of permanent revocation under this section without a
 20 finding that the licensee or registrant engaged in a pattern of
 21 intentional acts of fraud or deceit resulting in personal financial
 22 gain to the licensee or registrant and harm to the health of
 23 patients under the licensee's or registrant's care. This subsection
 24 does not apply if a disciplinary subcommittee finds that a licensee
 25 or registrant has violated section 16221(b) (xiv) or (b) (xv).

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

28 Sec. 16245. (1) Except as otherwise provided in this section
 29 or section 16245a, an individual whose license is limited,

1 suspended, or revoked under this part may apply to ~~his or her~~ **the**
 2 **individual's** board or task force for a reinstatement of a revoked
 3 or suspended license or reclassification of a limited license
 4 pursuant to section 16247 or 16249.

5 (2) Except as otherwise provided in this section or section
 6 16245a, an individual whose registration is suspended or revoked
 7 under this part may apply to ~~his or her~~ **the individual's** board for
 8 a reinstatement of a suspended or revoked registration pursuant to
 9 section 16248.

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

13 (4) Except as otherwise provided in this section or section
 14 16245a, in case of a revoked license or registration, an applicant
 15 shall not apply for reinstatement before the expiration of 3 years
 16 after the effective date of the revocation. Except as otherwise
 17 provided in this section or section 16245a, in the case of a
 18 license or registration that was revoked for a violation of section
 19 16221(b) (vii) or (xiii), a violation of section 16221(c) (iv) consisting
 20 of a felony conviction, any other felony conviction involving a
 21 controlled substance, or a violation of section ~~16221(q)~~, **16221(p)**,
 22 an applicant shall not apply for reinstatement before the
 23 expiration of 5 years after the effective date of the revocation.
 24 The department shall return an application for reinstatement
 25 received before the expiration of the applicable time period under
 26 this subsection.

27 (5) The department shall provide an opportunity for a hearing
 28 before final rejection of an application for reinstatement unless
 29 the application is returned because the applicant is ineligible for

1 reinstatement under subsection (4) or (9).

2 (6) Based ~~upon~~**on** the recommendation of the disciplinary
3 subcommittee for each health profession, the department shall adopt
4 guidelines to establish specific criteria to be met by an applicant
5 for reinstatement under this article, article 7, or article 8. The
6 criteria may include corrective measures or remedial education as a
7 condition of reinstatement. If a board or task force, in
8 reinstating a license or registration, deviates from the guidelines
9 adopted under this subsection, the board or task force shall state
10 the reason for the deviation on the record.

11 (7) An individual who seeks reinstatement or reclassification
12 of a license or registration under this section shall pay the
13 application processing fee as a reinstatement or reclassification
14 fee. If approved for reinstatement or reclassification, the
15 individual shall pay the per year license or registration fee for
16 the applicable license or registration period.

17 (8) An individual who seeks reinstatement of a revoked or
18 suspended license or reclassification of a limited license under
19 this section shall have a criminal history check conducted in
20 accordance with section 16174 and submit a copy of the results of
21 the criminal history check to the board with ~~his or her~~**the**
22 **individual's** application for reinstatement or reclassification.

23 (9) An individual whose license is permanently revoked under
24 section 16221 is ineligible for reinstatement. The department shall
25 return an application for reinstatement received if the applicant
26 is ineligible for reinstatement under this subsection.

27 Sec. 16299. (1) Except as otherwise provided in subsection
28 (2), a person who violates or aids or abets another in a violation
29 of this article, other than those matters described in sections

1 16294 and 16296, is guilty of a misdemeanor punishable as follows:

2 (a) For the first offense, by imprisonment for not more than
3 90 days or a fine of not more than \$100.00, or both.

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

7 (2) Subsection (1) does not apply to a ~~violation of section~~
8 ~~17015, 17015a, 17017, 17515, or 17517 or to a violation of this~~
9 article for which another criminal penalty is specifically
10 prescribed.

11 Sec. 20115. ~~(1)~~The department may promulgate rules to further
12 define the term "health facility or agency" and the definition of a
13 health facility or agency listed in section 20106 as required to
14 implement this article. The department may define a specific
15 organization as a health facility or agency for the sole purpose of
16 certification authorized under this article. For purpose of
17 certification only, an organization defined in section 20106(5),
18 20108(1), or 20109(4) is considered a health facility or agency.
19 The term "health facility or agency" does not mean a visiting nurse
20 service or home aide service conducted by and for the adherents of
21 a church or religious denomination for the purpose of providing
22 service for those who depend upon spiritual means through prayer
23 alone for healing.

24 ~~(2) The department shall promulgate rules to differentiate a~~
25 ~~freestanding surgical outpatient facility from a private office of~~
26 ~~a physician, dentist, podiatrist, or other health professional. The~~
27 ~~department shall specify in the rules that a facility including,~~
28 ~~but not limited to, a private practice office described in this~~
29 ~~subsection must be licensed under this article as a freestanding~~

1 ~~surgical outpatient facility if that facility performs 120 or more~~
2 ~~surgical abortions per year and publicly advertises outpatient~~
3 ~~abortion services.~~

4 ~~(3) The department shall promulgate rules that in effect~~
5 ~~republish R 325.3826, R 325.3832, R 325.3835, R 325.3857, R~~
6 ~~325.3866, R 325.3867, and R 325.3868 of the Michigan administrative~~
7 ~~code, but shall include in the rules standards for a freestanding~~
8 ~~surgical outpatient facility or private practice office that~~
9 ~~performs 120 or more surgical abortions per year and that publicly~~
10 ~~advertises outpatient abortion services. The department shall~~
11 ~~assure that the standards are consistent with the most recent~~
12 ~~United States supreme court decisions regarding state regulation of~~
13 ~~abortions.~~

14 ~~(4) Subject to section 20145 and part 222, the department may~~
15 ~~modify or waive 1 or more of the rules contained in R 325.3801 to R~~
16 ~~325.3877 of the Michigan administrative code regarding construction~~
17 ~~or equipment standards, or both, for a freestanding surgical~~
18 ~~outpatient facility that performs 120 or more surgical abortions~~
19 ~~per year and that publicly advertises outpatient abortion services,~~
20 ~~if both of the following conditions are met:~~

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

23 ~~(b) The department makes a determination that the existing~~
24 ~~construction or equipment conditions, or both, within the~~
25 ~~freestanding surgical outpatient facility are adequate to preserve~~
26 ~~the health and safety of the patients and employees of the~~
27 ~~freestanding surgical outpatient facility or that the construction~~
28 ~~or equipment conditions, or both, can be modified to adequately~~
29 ~~preserve the health and safety of the patients and employees of the~~

1 ~~freestanding surgical outpatient facility without meeting the~~
2 ~~specific requirements of the rules.~~

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

6 ~~(a) From data received by the department of community health~~
7 ~~through the abortion reporting requirements of section 2835, all of~~
8 ~~the following:~~

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

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

13 ~~(iii) The total number of surgical abortions performed at that~~
14 ~~facility location during the immediately preceding calendar year.~~

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

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

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

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

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

25 Enacting section 1. Sections 2835, 2836, 2837, 17014, 17015,
26 17015a, 17017, 17515, 17517, and 22224 of the public health code,
27 1978 PA 368, MCL 333.2835, 333.2836, 333.2837, 333.17014,
28 333.17015, 333.17015a, 333.17017, 333.17515, 333.17517, and
29 333.22224, are repealed.