

# HOUSE BILL NO. 4950

September 07, 2023, Introduced by Reps. Tsernoglou, Pohutsky, Hope, Koleszar, Brixie, Dievendorf, Price, Glanville, Morse, Rheingans, Arbit, Wilson, Steckloff, Liberati, Stone, Paiz, Byrnes, Mentzer, Breen, Skaggs, Wegela, Brabec, Hoskins, Haadsma, Hood, Conlin, MacDonell, Hill, Grant, Weiss and Morgan and referred to the Committee on Health Policy.

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:

1           (a) ~~"Elective abortion"~~ **"Abortion"** means **that term as defined**  
2 **in section 2803.** ~~the intentional use of an instrument, drug, or~~  
3 ~~other substance or device to terminate a woman's pregnancy for a~~  
4 ~~purpose other than to increase the probability of a live birth, to~~  
5 ~~preserve the life or health of the child after live birth, or to~~  
6 ~~remove a fetus that has died as a result of natural causes,~~  
7 ~~accidental trauma, or a criminal assault on the pregnant woman.~~  
8 ~~Elective abortion does not include any of the following:~~

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

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

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

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

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

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

23           (ii) A private physician practice, professional corporation, or  
24 freestanding surgical outpatient facility licensed under article  
25 17, that is owned or operated by the physician and in which an  
26 ~~elective~~ abortion is performed.

27           (iii) A private physician practice, professional corporation, or  
28 freestanding surgical outpatient facility licensed under article  
29 17, that employs or contracts with the physician to perform an

1 ~~elective~~-abortion.

2           Sec. 2803. (1) "Abortion" means ~~that term as defined in~~  
 3 ~~section 17015.~~ **a medical treatment that is intended to terminate a**  
 4 **diagnosable intrauterine pregnancy for a purpose other than to**  
 5 **produce a live birth. Abortion does not include the use or**  
 6 **prescription of a drug or device that prevents pregnancy or a**  
 7 **medical treatment used to remove a dead fetus or embryo whose death**  
 8 **was the result of a spontaneous abortion.**

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

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

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

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

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

28           (5) "Fetal remains" means a dead fetus or part of a dead fetus  
 29 that has completed at least 10 weeks of gestation or has reached

1 the stage of development that, upon visual inspection of the fetus  
2 or part of the fetus, the head, torso, or extremities appear to be  
3 supported by skeletal or cartilaginous structures. Fetal remains do  
4 not include the umbilical cord or placenta.

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

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

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

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

1 institution or agency authorized to accept donated bodies, fetuses,  
2 or fetal remains under this act. The parents, or parent if the  
3 mother is unmarried, may direct the final disposition to be  
4 interment or cremation as those terms are defined in section 2 of  
5 the cemetery regulation act, 1968 PA 251, MCL 456.522, or  
6 incineration. After final disposition, the funeral director, the  
7 individual in charge of the institution, or other person making the  
8 final disposition shall retain the permit for not less than 7  
9 years. This section as amended by ~~the amendatory act that added~~  
10 ~~this sentence~~ **2012 PA 499** does not require a religious service or  
11 ceremony as part of the final disposition of fetal remains.

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

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

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

22 Sec. 2854. A person who violates this part by failing to  
23 ~~dispose of fetal remains resulting from an abortion as prescribed~~  
24 ~~in section 2836 or by failing to~~ obtain the proper authorization  
25 for final disposition of a dead body as provided under section 2848  
26 is responsible for a state civil infraction as provided under  
27 chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL  
28 600.8801 to 600.8835, and may be ordered to pay a civil fine of not  
29 more than \$1,000.00 per violation.

1           Sec. 9141. (1) The department shall establish and administer a  
2 grant program to provide grants for the purchase of ultrasound  
3 equipment. The department shall use the grant program to make  
4 grants to qualified entities that apply for a grant and that do not  
5 have at least 2 ultrasound machines.

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

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

1 ~~shall only be approved~~ if the money is available in the fund.

2 (4) A cash match of at least 50% of the grant or other  
3 repayment guarantee with a dedicated funding source is required  
4 before a grant can be awarded.

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

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

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

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

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

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

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

29 ~~(v) Shall not use the ultrasound equipment to assist in the~~



1 ~~performance of an elective abortion.~~

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

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

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

13 (8) As used in this section:

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

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

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

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

29 (a) ~~(e)~~ "Entity" means a local agency, organization, or

1 corporation or a subdivision, contractee, subcontractee, or grant  
2 recipient of a local agency, organization, or corporation.

3 (b) ~~(d)~~ "Fund" means the ultrasound equipment fund created  
4 under subsection (2).

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

11 Sec. 10102. As used in this part:

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

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

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

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

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

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

25 (e) "Decedent" means a deceased individual whose body or body  
26 part is or may be the source of an anatomical gift. The term  
27 includes a stillborn infant and, subject to this subdivision and  
28 restrictions imposed by law other than this part, a fetus. The term  
29 does not include a blastocyst, embryo, or fetus that is the subject

1 of an abortion. As used in this subdivision, "abortion" means ~~that~~  
2 ~~term as defined in section 17015.~~ **a medical treatment that is**  
3 **intended to terminate a diagnosable intrauterine pregnancy for a**  
4 **purpose other than to produce a live birth. Abortion does not**  
5 **include the use or prescription of a drug or device that prevents**  
6 **pregnancy or a medical treatment used to remove a dead fetus or**  
7 **embryo whose death was the result of a spontaneous abortion.**

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

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

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

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

22 (j) "Driver license" means an operator's or chauffeur's  
23 license or permit issued to an individual by the secretary of state  
24 under chapter III of the Michigan vehicle code, 1949 PA 300, MCL  
25 257.301 to 257.329, for that individual to operate a vehicle,  
26 whether or not conditions are attached to the license or permit.

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

28 (l) "Eye bank" means a person that is licensed, accredited, or  
29 regulated under federal or state law to engage in the recovery,

1 screening, testing, processing, storage, or distribution of human  
2 eyes or portions of human eyes.

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

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

10 (o) "Identification card" means an official state personal  
11 identification card issued by the secretary of state under 1972 PA  
12 222, MCL 28.291 to 28.300.

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

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

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

18 (s) "Organ procurement organization" means a person certified  
19 or recertified by the ~~secretary~~**Secretary** of the United States  
20 ~~department of health and human services~~**Department of Health and**  
21 **Human Services** as a qualified organ procurement organization under  
22 42 USC 273(b).

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

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

1 (v) "Physician" means an individual authorized to practice  
2 medicine or osteopathic medicine and surgery under the law of any  
3 state.

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

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

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

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

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

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

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

26 (i) Executes or adopts a tangible symbol.

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

29 (dd) "State" means a state of the United States, the District

1 of Columbia, Puerto Rico, the United States Virgin Islands, or any  
2 territory or insular possession subject to the jurisdiction of the  
3 United States.

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

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

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

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

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

1 (a) Except as otherwise specifically provided in this section,  
2 a violation of general duty, consisting of negligence or failure to  
3 exercise due care, including negligent delegation to or supervision  
4 of employees or other individuals, whether or not injury results,  
5 or any conduct, practice, or condition that impairs, or may impair,  
6 the ability to safely and skillfully engage in the practice of the  
7 health profession.

8 (b) Personal disqualifications, consisting of 1 or more of the  
9 following:

10 (i) Incompetence.

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

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

17 (iv) Declaration of mental incompetence by a court of competent  
18 jurisdiction.

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

25 (vi) Lack of good moral character.

26 (vii) Conviction of a criminal offense under section 520e or  
27 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and  
28 750.520g. A certified copy of the court record is conclusive  
29 evidence of the conviction.

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

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

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

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

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

22           (xiii) Conviction of a criminal offense under section 83, 84,  
23 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal  
24 code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321,  
25 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the  
26 court record is conclusive evidence of the conviction.

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



1 conviction.

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

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

8 (i) Fraud or deceit in obtaining or renewing a license or  
9 registration.

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

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

13 (iv) Obtaining, possessing, or attempting to obtain or possess  
14 a controlled substance or a drug as **that term is** defined in section  
15 7105 without lawful authority; or selling, prescribing, giving  
16 away, or administering drugs for other than lawful diagnostic or  
17 therapeutic purposes.

18 (d) Except as otherwise specifically provided in this section,  
19 unethical business practices, consisting of 1 or more of the  
20 following:

21 (i) False or misleading advertising.

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

25 (iii) Fraud or deceit in obtaining or attempting to obtain third  
26 party reimbursement.

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

29 (i) Misrepresentation to a consumer or patient or in obtaining

1 or attempting to obtain third party reimbursement in the course of  
2 professional practice.

3 (ii) Betrayal of a professional confidence.

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

6 (iv) Either of the following:

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

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

1 changes to the revision. As used in this sub-subparagraph,  
 2 "designated health service" means that term as defined in 42 USC  
 3 1395nn and the regulations promulgated under that section and  
 4 "physician" means that term as defined in sections 17001 and 17501.

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

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

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

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

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

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

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

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

11 (j) Failure to pay an installment of an assessment levied  
12 under the insurance code of 1956, 1956 PA 218, MCL 500.100 to  
13 500.8302, within 60 days after notice by the appropriate board.

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

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

17 ~~(m) A violation of section 17015, 17015a, 17017, 17515, or~~  
18 ~~17517.~~

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

20 (m) ~~(e)~~ Failure to comply with section 9206(3).

21 (n) ~~(p)~~ A violation of section 5654 or 5655.

22 (o) ~~(q)~~ A violation of section 16274.

23 (p) ~~(r)~~ A violation of section 17020 or 17520.

24 (q) ~~(s)~~ A violation of the medical records access act, 2004 PA  
25 47, MCL 333.26261 to 333.26271.

26 (r) ~~(t)~~ A violation of section 17764(2).

27 (s) ~~(u)~~ Failure to comply with the terms of a practice  
28 agreement described in section 17047(2)(a) or (b), 17547(2)(a) or  
29 (b), or 18047(2)(a) or (b).

- 1            ~~(t)~~ ~~(v)~~—A violation of section 7303a(2).
- 2            ~~(u)~~ ~~(w)~~—A violation of section 7303a(4) or (5).
- 3            ~~(v)~~ ~~(x)~~—A violation of section 7303b.
- 4            ~~(w)~~ ~~(y)~~—A violation of section 17754a.
- 5            ~~(x)~~ ~~(z)~~—Beginning January 1, 2021, a violation of section
- 6 24507 or 24509.

7            Sec. 16226. (1) After finding the existence of 1 or more of  
 8 the grounds for disciplinary subcommittee action listed in section  
 9 16221, a disciplinary subcommittee shall impose 1 or more of the  
 10 following sanctions for each violation:

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

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

4 Subdivision **(t) or** (v) ~~or~~ Probation, limitation, denial,  
5 ~~(x)~~  
6 fine, suspension, revocation, or  
7 permanent revocation.

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

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

14 Subdivision ~~(z)~~**(x)** 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  
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1 that does not exceed \$250,000.00 for a violation of section  
 2 16221(a) or (b). A disciplinary subcommittee shall impose a fine of  
 3 at least \$25,000.00 if the violation of section 16221(a) or (b)  
 4 results in the death of 1 or more patients.

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

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

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

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

29 Sec. 16245. (1) Except as otherwise provided in this section

1 or section 16245a, an individual whose license is limited,  
 2 suspended, or revoked under this part may apply to ~~his or her~~ **the**  
 3 **individual's** board or task force for a reinstatement of a revoked  
 4 or suspended license or reclassification of a limited license  
 5 pursuant to section 16247 or 16249.

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

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

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

28 (5) The department shall provide an opportunity for a hearing  
 29 before final rejection of an application for reinstatement unless

1 the application is returned because the applicant is ineligible for  
2 reinstatement under subsection (4) or (9).

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

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

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

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

28 Sec. 16299. (1) Except as otherwise provided in subsection  
29 (2), a person who violates or aids or abets another in a violation

1 of this article, other than those matters described in sections  
2 16294 and 16296, is guilty of a misdemeanor punishable as follows:

3 (a) For the first offense, by imprisonment for not more than  
4 90 days or a fine of not more than \$100.00, or both.

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

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

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

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

1 ~~subsection must be licensed under this article as a freestanding~~  
2 ~~surgical outpatient facility if that facility performs 120 or more~~  
3 ~~surgical abortions per year and publicly advertises outpatient~~  
4 ~~abortion services.~~

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

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

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

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

1 ~~preserve the health and safety of the patients and employees of the~~  
2 ~~freestanding surgical outpatient facility without meeting the~~  
3 ~~specific requirements of the rules.~~

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

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

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

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

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

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

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

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

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

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

26 Enacting section 1. Sections 2835, 2836, 2837, 17014, 17015,  
27 17015a, 17016, 17017, 17515, 17516, 17517, and 22224 of the public  
28 health code, 1978 PA 368, MCL 333.2835, 333.2836, 333.2837,  
29 333.17014, 333.17015, 333.17015a, 333.17016, 333.17017, 333.17515,

1 333.17516, 333.17517, and 333.22224, are repealed.

2 Enacting section 2. This amendatory act does not take effect  
3 unless Senate Bill No.\_\_\_\_ or House Bill No. 4949 (request no.  
4 00312'23 \*) of the 102nd Legislature is enacted into law.