

# HOUSE BILL No. 5769

July 13, 2016, Introduced by Reps. Kosowski, Heise, LaFontaine, Inman, Santana, Cox and Darany and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1978 PA 368, entitled

"Public health code,"

by amending sections 2501, 2640, 2701, 2723, 2882, 5131, 5456, 5474b, 5474b[1], 5656, 5887, 7203, 7411, 7421, 9141, 9701, 10301, 12103, 16204a, 16204d, 16241, 16281, 16315, 16625, 16807, 17015, 17020, 17520, 17745a, 17748c, 17775, 20106, 20115, 20156, 21313, 21332, 21601, 21716, 21766, 21773, 21777, 21799b, 21799c, 22205, and 22207 (MCL 333.2501, 333.2640, 333.2701, 333.2723, 333.2882, 333.5131, 333.5456, 333.5474b, 333.5474b[1], 333.5656, 333.5887, 333.7203, 333.7411, 333.7421, 333.9141, 333.9701, 333.10301, 333.12103, 333.16204a, 333.16204d, 333.16241, 333.16281, 333.16315, 333.16625, 333.16807, 333.17015, 333.17020, 333.17520, 333.17745a, 333.17748c, 333.17775, 333.20106, 333.20115, 333.20156, 333.21313,

333.21332, 333.21601, 333.21716, 333.21766, 333.21773, 333.21777, 333.21799b, 333.21799c, 333.22205, and 333.22207), section 2501 as added by 2006 PA 137, section 2640 as amended and section 16281 as added by 1998 PA 496, section 2701 as amended by 2014 PA 172, section 2723 as amended by 2014 PA 173, section 2882 as amended by 2002 PA 691, section 5131 as amended by 2010 PA 119, section 5456 as amended by 2002 PA 644, section 5474b as added by 2004 PA 432, section 5474b[1] as added by 2004 PA 433, section 5656 as amended by 2001 PA 237, section 5887 as added by 2014 PA 122, section 7203 as amended by 2012 PA 182, section 7411 as amended by 2013 PA 223, section 7421 as added by 2014 PA 311, section 9141 as added by 2004 PA 501, section 9701 as added by 2004 PA 250, section 10301 as added by 2012 PA 179, section 12103 as amended by 2006 PA 260, section 16204a as amended by 2001 PA 234, section 16204d as amended by 2001 PA 241, section 16241 as amended and section 17748c as added by 2014 PA 280, sections 16315 and 17775 as amended by 2013 PA 268, section 16625 as amended by 2005 PA 161, section 16807 as added by 2004 PA 97, sections 17015 and 20115 as amended by 2012 PA 499, sections 17020 and 17520 as added by 2000 PA 29, section 17745a as amended by 1999 PA 190, section 20106 as amended by 2015 PA 104, section 20156 as amended by 2006 PA 195, section 21313 as amended by 2012 PA 51, sections 21332 and 21716 as added and section 21799b as amended by 2000 PA 437, section 21601 as added by 2014 PA 100, section 21766 as amended by 2001 PA 243, section 21773 as amended by 2001 PA 137, section 21777 as amended by 2004 PA 372, section 21799c as amended by 1996 PA 546, and sections 22205 and 22207 as amended by 2002 PA 619.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2501. As used in this part:

2           (a) "Commission" means the health information technology  
3 commission created under section 2503.

4           (b) "Department" means the department of ~~community health~~ **AND**  
5 **HUMAN SERVICES.**

6           Sec. 2640. (1) The department shall give prompt access to the  
7 ~~parentage registry to the family independence agency or its agent~~  
8 **CENTRAL PATERNITY REGISTRY TO ANY OF ITS AGENTS** for the purpose of  
9 the ~~family independence agency's~~ **DEPARTMENT'S** duty to aid in the  
10 establishment or enforcement of child support obligations. The  
11 ~~family independence agency~~ **DEPARTMENT** or its agent may use or  
12 disclose the information from the parentage registry in carrying  
13 out that duty.

14           (2) Notwithstanding section 2637, if there is a compelling  
15 need for medical records or information to determine whether child  
16 abuse or **CHILD** neglect has occurred or to take action to protect a  
17 child where there may be a substantial risk of harm, the department  
18 shall give access to a ~~family independence agency~~ **THE** caseworker or  
19 administrator directly involved in the investigation to the child's  
20 medical records and information that are pertinent to the child  
21 abuse or **CHILD** neglect investigation. Medical records or  
22 information disclosed under this section shall include the identity  
23 of the individual to whom the record or information pertains.

24           (3) The department shall provide the access described by  
25 subsection (2) only upon receipt of a written request from a  
26 caseworker or administrator directly involved in the investigation

1 and shall provide that access within 14 calendar days after the  
2 record holder receives the written request. The department shall  
3 provide that access regardless of the consent of the person from  
4 whom consent would otherwise be required.

5 (4) To the extent not protected by the immunity conferred by  
6 1964 PA 170, MCL 691.1401 to ~~691.1415~~, **691.1419**, an individual who  
7 in good faith provides access to medical records or information  
8 under subsection (2) is immune from civil or administrative  
9 liability arising from that conduct, unless the conduct was gross  
10 negligence or willful and wanton misconduct.

11 (5) This section does not apply to a report, record, datum, or  
12 information whose confidentiality and disclosure are governed by  
13 section 5131.

14 Sec. 2701. As used in this part:

15 (a) "Board certified" means certified to practice in a  
16 particular medical ~~speciality~~ **SPECIALTY** by a national board  
17 recognized by the American ~~board of medical specialties~~ **BOARD OF**  
18 **MEDICAL SPECIALTIES** or the American ~~osteopathic~~  
19 ~~association~~ **OSTEOPATHIC ASSOCIATION**.

20 (b) "Certified nurse midwife" means an individual licensed as  
21 a registered professional nurse under part 172 who has been issued  
22 a specialty certification in the practice of nurse midwifery by the  
23 board of nursing under section 17210.

24 (c) "Certified nurse practitioner" means an individual  
25 licensed as a registered professional nurse under part 172 who has  
26 been issued a specialty certification as a nurse practitioner by  
27 the board of nursing under section 17210.

1 (d) "Dental school" means an accredited program for the  
2 training of individuals to become dentists.

3 (e) "Dentist" means an individual licensed to engage in the  
4 practice of dentistry under part 166.

5 (f) "Designated nurse" means a certified nurse midwife or  
6 certified nurse practitioner.

7 (g) "Designated physician" means a physician qualified in 1 of  
8 the physician specialty areas identified in section 2711.

9 (h) "Designated professional" means a designated physician,  
10 designated nurse, dentist, or physician's assistant.

11 (i) "Health resource shortage area" means a geographic area,  
12 population group, or health facility designated by the department  
13 under section 2717.

14 (j) "Medicaid" means benefits under the program of medical  
15 assistance established under title XIX of the social security act,  
16 42 USC 1396 to 1396w-5, and administered by the department of ~~human~~  
17 ~~services~~ under the social welfare act, 1939 PA 280, MCL 400.1 to  
18 400.119b.

19 (k) "Medical school" means an accredited program for the  
20 training of individuals to become physicians.

21 (l) "Medicare" means benefits under the federal ~~medicare~~  
22 **MEDICARE** program established under title XVIII of the social  
23 security act, 42 USC 1395 to ~~1395kkk-1~~ **1395lll**.

24 (m) "National health service corps" means the agency  
25 established under 42 USC 254d.

26 (n) "Nurse" means an individual licensed to engage in the  
27 practice of nursing under part 172.

1 (o) "Nursing program" means an accredited program for the  
2 training of individuals to become nurses.

3 (p) "Physician" means an individual licensed as a physician  
4 under part 170 or an osteopathic physician under part 175.

5 (q) "Physician's assistant" means an individual licensed as a  
6 physician's assistant under part 170 or part 175.

7 (r) "Physician's assistant program" means an accredited  
8 program for the training of individuals to become physician's  
9 assistants.

10 (s) "Service obligation" means the contractual obligation  
11 undertaken by an individual under section 2705 or section 2707 to  
12 provide health care services for a determinable time period at a  
13 site designated by the department.

14 Sec. 2723. (1) The department may promulgate rules necessary  
15 for the implementation of the department's functions under this  
16 part.

17 (2) The department shall report biennially to the house and  
18 senate appropriations subcommittees on the department, ~~of community~~  
19 ~~health,~~ the house and senate fiscal agencies, the governor, the  
20 state health planning council, and the public health advisory  
21 council on the status of the Michigan essential health provider  
22 recruitment strategy for the preceding 2 years. In addition to the  
23 status report, the report shall include, but not be limited to, all  
24 of the following:

25 (a) Review of state and federal legislation, rules,  
26 guidelines, and policy directives affecting the health personnel of  
27 health resource shortage areas.

1 (b) Recommendations concerning physician specialty areas or  
2 other health professions for inclusion in the Michigan essential  
3 health provider recruitment strategy based upon a determination of  
4 the need for various types of health care providers in this state.

5 (c) An assessment of whether the amount of debt or expense  
6 repayment an individual may receive under section 2705(3) is  
7 sufficient to facilitate the placement and retention of designated  
8 professionals in health resource shortage areas, or whether that  
9 maximum amount should be adjusted to reflect changes in tuition  
10 costs for students enrolled in medical schools, dental schools,  
11 nursing programs, or physician's assistant programs.

12 (d) An analysis of the return on investment and effectiveness  
13 of the grant program under section 2707 and the essential health  
14 provider repayment program under section 2705.

15 Sec. 2882. (1) Except as otherwise provided in section 2890,  
16 upon written request and payment of the prescribed fee, the state  
17 registrar or local registrar shall issue the appropriate 1 of the  
18 following:

19 (a) A certified copy of a live birth record, an affidavit of  
20 parentage filed after June 1, 1997, or a record of stillbirth filed  
21 after June 1, 2003 to 1 of the following:

22 (i) The individual who is the subject of the record.

23 (ii) A parent named in the record.

24 (iii) An heir, a legal representative, or a legal guardian of  
25 the individual who is the subject of the record.

26 (iv) A court of competent jurisdiction.

27 (b) If the live birth record is 100 or more years old, a

1 certified copy of the live birth record to any applicant.

2 (c) A certified copy of a death record, including the cause of  
3 death, to any applicant.

4 (d) A certified copy of a marriage or divorce record to any  
5 applicant, except as provided by rule.

6 (e) A certified copy of a fetal death record that was filed  
7 before September 30, 1978, to any applicant.

8 (2) Upon written request of an adult who has been adopted and  
9 payment of the prescribed fee, the state registrar shall issue to  
10 that individual a copy of his or her original certificate of live  
11 birth, if the written request identifies the name of the adult  
12 adoptee and is accompanied by a copy of a central adoption registry  
13 clearance reply form that was completed by the ~~family independence~~  
14 ~~agency~~ **DEPARTMENT** and delivered to that individual as required by  
15 section 68(9) of the Michigan adoption code, chapter X of the  
16 probate code of 1939, 1939 PA 288, MCL 710.68.

17 (3) Upon written request of a confidential intermediary  
18 appointed under section 68b of the Michigan adoption code, chapter  
19 X of the probate code of 1939, 1939 PA 288, MCL 710.68b,  
20 presentation of a certified copy of the order of appointment,  
21 identification of the name of the adult adoptee, and payment of the  
22 required fee, the state registrar shall issue to the confidential  
23 intermediary a copy of the original certificate of live birth of  
24 the adult adoptee on whose behalf the intermediary was appointed.

25 (4) A copy of the original certificate of live birth provided  
26 under subsection (2) or (3) shall have the following phrase marked  
27 on the face of the copy: "This document is a copy of a sealed



1 record and is not the active birth certificate of the individual  
2 whose name appears on this document".

3       Sec. 5131. (1) All reports, records, and data pertaining to  
4 testing, care, treatment, reporting, and research, and information  
5 pertaining to partner notification under section 5114a, that are  
6 associated with the serious communicable diseases or infections of  
7 HIV infection and acquired immunodeficiency syndrome are  
8 confidential. A person shall release reports, records, data, and  
9 information described in this subsection only ~~pursuant~~**ACCORDING** to  
10 this section.

11       (2) Except as otherwise provided by law, the test results of a  
12 test for HIV infection or acquired immunodeficiency syndrome and  
13 the fact that such a test was ordered is information that is  
14 subject to section 2157 of the revised judicature act of 1961, 1961  
15 PA 236, MCL 600.2157.

16       (3) The disclosure of information pertaining to HIV infection  
17 or acquired immunodeficiency syndrome in response to a court order  
18 and subpoena is limited to only the following cases and is subject  
19 to all of the following restrictions:

20       (a) A court that is petitioned for an order to disclose the  
21 information shall determine both of the following:

22       (i) That other ways of obtaining the information are not  
23 available or would not be effective.

24       (ii) That the public interest and need for the disclosure  
25 outweigh the potential for injury to the patient.

26       (b) If a court issues an order for the disclosure of the  
27 information, the order shall do all of the following:

1           (i) Limit disclosure to those parts of the patient's record  
2 that are determined by the court to be essential to fulfill the  
3 objective of the order.

4           (ii) Limit disclosure to those persons whose need for the  
5 information is the basis for the order.

6           (iii) Include ~~such~~ other measures as considered necessary by  
7 the court to limit disclosure for the protection of the patient.

8           (4) A person who releases information pertaining to HIV  
9 infection or acquired immunodeficiency syndrome to a legislative  
10 body shall not identify in the information a specific individual  
11 who was tested or is being treated for HIV infection or acquired  
12 immunodeficiency syndrome.

13           (5) Subject to subsection (7), subsection (1) does not apply  
14 to the following:

15           (a) Information pertaining to an individual who is HIV  
16 infected or has been diagnosed as having acquired immunodeficiency  
17 syndrome, if the information is disclosed to the department, a  
18 local health department, or other health care provider for 1 or  
19 more of the following purposes:

20           (i) To protect the health of an individual.

21           (ii) To prevent further transmission of HIV.

22           (iii) To diagnose and care for a patient.

23           (b) Information pertaining to an individual who is HIV  
24 infected or has been diagnosed as having acquired immunodeficiency  
25 syndrome, if the information is disclosed by a physician or local  
26 health officer to an individual who is known by the physician or  
27 local health officer to be a contact of the individual who is HIV

1 infected or has been diagnosed as having acquired immunodeficiency  
2 syndrome, if the physician or local health officer determines that  
3 the disclosure of the information is necessary to prevent a  
4 reasonably foreseeable risk of further transmission of HIV. This  
5 subdivision imposes an affirmative duty upon a physician or local  
6 health officer to disclose information pertaining to an individual  
7 who is HIV infected or has been diagnosed as having acquired  
8 immunodeficiency syndrome to an individual who is known by the  
9 physician or local health officer to be a contact of the individual  
10 who is HIV infected or has been diagnosed as having acquired  
11 immunodeficiency syndrome. A physician or local health officer may  
12 discharge the affirmative duty imposed under this subdivision by  
13 referring the individual who is HIV infected or has been diagnosed  
14 as having acquired immunodeficiency syndrome to the appropriate  
15 local health department for assistance with partner notification  
16 under section 5114a. The physician or local health officer shall  
17 include as part of the referral the name and, if available, address  
18 and telephone number of each individual known by the physician or  
19 local health officer to be a contact of the individual who is HIV  
20 infected or has been diagnosed as having acquired immunodeficiency  
21 syndrome.

22 (c) Information pertaining to an individual who is HIV  
23 infected or has been diagnosed as having acquired immunodeficiency  
24 syndrome, if the information is disclosed by an authorized  
25 representative of the department or by a local health officer to an  
26 employee of a school district, and if the department representative  
27 or local health officer determines that the disclosure is necessary

1 to prevent a reasonably foreseeable risk of transmission of HIV to  
2 pupils in the school district. An employee of a school district to  
3 whom information is disclosed under this subdivision is subject to  
4 subsection (1).

5 (d) Information pertaining to an individual who is HIV  
6 infected or has been diagnosed as having acquired immunodeficiency  
7 syndrome, if the disclosure is expressly authorized in writing by  
8 the individual. This subdivision applies only if the written  
9 authorization is specific to HIV infection or acquired  
10 immunodeficiency syndrome. If the individual is a minor or  
11 incapacitated, the written authorization may be executed by the  
12 parent or legal guardian of the individual.

13 (e) Information disclosed under section 5114, 5114a, 5119(3),  
14 5129, 5204, or 20191 or information disclosed as required by rule  
15 promulgated under section 5111.

16 (f) Information pertaining to an individual who is HIV  
17 infected or has been diagnosed as having acquired immunodeficiency  
18 syndrome, if the information is part of a report required under the  
19 child protection law, 1975 PA 238, MCL 722.621 to 722.638.

20 (g) Information pertaining to an individual who is HIV  
21 infected or has been diagnosed as having acquired immunodeficiency  
22 syndrome, if the information is disclosed by the department, ~~of~~  
23 ~~human services,~~ the probate court, or a child placing agency in  
24 order to care for a minor and to place the minor with a child care  
25 organization licensed under 1973 PA 116, MCL 722.111 to 722.128.  
26 The person disclosing the information shall disclose it only to the  
27 director of the child care organization or, if the child care

1 organization is a private home, to the individual who holds the  
2 license for the child care organization. An individual to whom  
3 information is disclosed under this subdivision is subject to  
4 subsection (1). As used in this subdivision, "child care  
5 organization" and "child placing agency" mean those terms as  
6 defined in section 1 of 1973 PA 116, MCL 722.111.

7 (6) A person who releases the results of an HIV test or other  
8 information described in subsection (1) in compliance with  
9 subsection (5) is immune from civil or criminal liability and  
10 administrative penalties including, but not limited to, licensure  
11 sanctions, for the release of that information.

12 (7) A person who discloses information under subsection (5)  
13 shall not include in the disclosure information that identifies the  
14 individual to whom the information pertains, unless the identifying  
15 information is determined by the person making the disclosure to be  
16 reasonably necessary to prevent a foreseeable risk of transmission  
17 of HIV. This subsection does not apply to information disclosed  
18 under subsection (5)(d), (f), or (g).

19 (8) A person who violates this section is guilty of a  
20 misdemeanor, punishable by imprisonment for not more than 1 year or  
21 a fine of not more than \$5,000.00, or both, and is liable in a  
22 civil action for actual damages or \$1,000.00, whichever is greater,  
23 and costs and reasonable attorney fees. This subsection also  
24 applies to the employer of a person who violates this section,  
25 unless the employer had in effect at the time of the violation  
26 reasonable precautions designed to prevent the violation.

27 Sec. 5456. ~~(1) "Department" means the department of community~~

1 health.

2 (1) ~~(2)~~—"Deteriorated paint" means paint or other surface  
3 coating that is cracking, flaking, chipping, peeling, or otherwise  
4 damaged or separating from the substrate of a building component.

5 (2) ~~(3)~~—"Discipline" means 1 of the specific types or  
6 categories of lead-based paint activities identified in this part  
7 for which an individual may receive training from an accredited  
8 training program and become certified by the department.

9 (3) ~~(4)~~—"Distinct painting history" means the application  
10 history, as indicated by its visual appearance or a record of  
11 application, over time of paint or other surface coatings to a  
12 component or room.

13 (4) ~~(5)~~—"Documented methodology" means a method or protocol  
14 used to do either or both of the following:

15 (a) Sample and test for the presence of lead in paint, dust,  
16 and soil.

17 (b) Perform related work practices as described in rules  
18 promulgated under this part.

19 (5) ~~(6)~~—"Dust lead hazard" means surface dust in a residential  
20 dwelling or ~~child-occupied~~ **CHILD-OCCUPIED** facility that contains a  
21 concentration of lead at or in excess of levels identified by the  
22 EPA pursuant to section 403 of title IV of the toxic substances  
23 control act, Public Law 94-469, 15 U.S.C. ~~USC~~ 2683, or as otherwise  
24 defined by rule.

25 (6) ~~(7)~~—"Elevated blood level" or "EBL" means for purposes of  
26 lead abatement an excessive absorption of lead that is a confirmed  
27 concentration of lead in whole blood of 20 ug/dl, micrograms of

1 lead per deciliter of whole blood, for a single venous test or of  
2 15-19 ug/dl in 2 consecutive tests taken 3 to 4 months apart. For  
3 purposes of case management of children 6 years of age or less,  
4 elevated blood level means an excessive absorption of lead that is  
5 a confirmed concentration of lead in whole blood of 10 ug/dl.

6 (7) ~~(8)~~—"Encapsulant" means a substance that forms a barrier  
7 between lead-based paint and the environment using a liquid-applied  
8 coating, with or without reinforcement materials, or an adhesively  
9 bonded covering material.

10 (8) ~~(9)~~—"Encapsulation" means the application of an  
11 encapsulant.

12 (9) ~~(10)~~—"Enclosure" means the use of rigid, durable  
13 construction materials that are mechanically fastened to the  
14 substrate in order to act as a barrier between lead-based paint and  
15 the environment.

16 (10) ~~(11)~~—"EPA" means the United States ~~environmental~~  
17 ~~protection agency.~~ **ENVIRONMENTAL PROTECTION AGENCY.**

18 Sec. 5474b. (1) The department in cooperation with ~~the family~~  
19 ~~independence agency and the Michigan state housing development~~  
20 authority shall establish and maintain a registry, to be known as  
21 the "lead safe housing registry", to provide the public with a  
22 listing of residential and multifamily dwellings and ~~child-occupied~~  
23 **CHILD-OCCUPIED** facilities that have been abated of or have had  
24 interim controls performed to control lead-based paint hazards as  
25 determined through a lead-based paint investigation performed by a  
26 certified risk assessor certified under this part.

27 (2) The owner of target housing that is offered for rent or

1 lease as a residence or the owner of a ~~child-occupied~~ **CHILD-**  
2 **OCCUPIED** facility shall register that property with the department  
3 if that property has been abated of or has had interim controls  
4 performed to control lead-based paint hazards as determined through  
5 a lead-based paint investigation performed by a certified risk  
6 assessor certified under this part in a form as prescribed by the  
7 department free of charge. The form shall include, at a minimum,  
8 the following:

9 (a) Name of the owner of the building.

10 (b) Address of the building.

11 (c) Date of construction.

12 (d) Date and description of any lead-based paint activity  
13 including the name of the certified abatement worker or the  
14 certified risk assessor certified under this part who performed the  
15 abatement or conducted the inspection, lead-hazard screen,  
16 assessment, or clearance testing of the building and the results of  
17 the lead-based paint activity.

18 (3) An owner required to register his or her property under  
19 subsection (2) shall provide the department with a copy of each  
20 report, document, or other information that is required to be filed  
21 with the federal government under federal law and regulations  
22 related to lead-based paint.

23 (4) The owner of any other residential or multifamily dwelling  
24 that is offered for rent or lease as a residence or the owner of a  
25 ~~child-occupied~~ **CHILD-OCCUPIED** facility may register that property  
26 with the department and the department shall include that property  
27 on the lead safe housing registry. A person who wishes to register



1 under this subsection shall execute and return the registration  
2 form to the department with payment of the registration fee in an  
3 amount as prescribed by the department.

4 (5) The department shall publish the lead safe housing  
5 registry on its website and provide a copy of the registry to a  
6 person upon request. The department may charge a reasonable, cost-  
7 based fee for providing copies of the lead safe housing registry  
8 under this subsection.

9 Sec. 5474b[1]. (1) The department in cooperation with ~~the~~  
10 ~~family independence agency and the Michigan state housing~~  
11 development authority shall establish and maintain a registry, to  
12 be known as the "lead safe housing registry", to provide the public  
13 with a listing of residential and multifamily dwellings and ~~child~~  
14 ~~occupied~~ **CHILD-OCCUPIED** facilities that have been abated or have  
15 had interim controls performed to control lead-based paint hazards  
16 as determined through a lead-based paint investigation performed by  
17 a certified risk assessor certified under this part.

18 (2) The owner of target housing that is offered for rent or  
19 lease as a residence or the owner of a ~~child occupied~~ **CHILD-**  
20 **OCCUPIED** facility shall register that property with the department  
21 if that property has been abated of or has had interim controls  
22 performed to control lead-based paint hazards as determined through  
23 a lead-based paint investigation performed by a certified risk  
24 assessor certified under this part in a form as prescribed by the  
25 department free of charge. The form shall include, at a minimum,  
26 the following:

27 (a) Name of the owner of the building.

1 (b) Address of the building.

2 (c) Date of construction.

3 (d) Date and description of any lead-based paint activity  
4 including the name of the certified abatement worker or the  
5 certified risk assessor certified under this part who performed the  
6 abatement or conducted the inspection, lead-hazard screen,  
7 assessment, or clearance testing of the building and the results of  
8 the lead-based paint activity.

9 (3) An owner required to register his or her property under  
10 subsection (2) shall provide the department with a copy of each  
11 report, document, or other information that is required to be filed  
12 with the federal government under federal law and regulations  
13 related to lead-based paint.

14 (4) The owner of any other residential or multifamily dwelling  
15 that is offered for rent or lease as a residence or the owner of a  
16 ~~child-occupied~~**CHILD-OCCUPIED** facility may register that property  
17 with the department and the department shall include that property  
18 on the lead safe housing registry. A person who wishes to register  
19 under this subsection shall execute and return the registration  
20 form to the department with payment of the registration fee in an  
21 amount as prescribed by the department.

22 (5) The department shall publish the lead safe housing  
23 registry on its website and provide a copy of the registry to a  
24 person upon request. The department may charge a reasonable, cost-  
25 based fee for providing copies of the lead safe housing registry  
26 under this subsection.

27 Sec. 5656. (1) ~~By July 1, 2002, the~~**THE** department of

1 ~~community health~~ shall develop and publish an updated standardized,  
2 written summary that contains all of the information required under  
3 section 5655.

4 (2) The department shall develop the updated standardized,  
5 written summary in consultation with appropriate professional and  
6 other organizations. The department shall draft the summary in  
7 nontechnical terms that a patient, patient surrogate, or patient  
8 advocate can easily understand.

9 (3) The department shall make the updated standardized,  
10 written summary described in subsection (1) available to physicians  
11 through the Michigan board of medicine and the Michigan board of  
12 osteopathic medicine and surgery created in article 15. The  
13 Michigan board of medicine and the Michigan board of osteopathic  
14 medicine and surgery shall notify in writing each physician subject  
15 to this part of the requirements of this part and the availability  
16 of the updated standardized, written summary within 10 days after  
17 the updated standardized, written summary is published.

18 Sec. 5887. The department ~~and the department of human services~~  
19 shall ~~collaborate to~~ do all of the following:

20 (a) Work to improve community-based services available to  
21 inform parents regarding the risk factors associated with infant  
22 death due to unsafe sleep practices and infant safe sleep  
23 practices.

24 (b) Work with other state and local governmental agencies,  
25 community organizations, health care and human service providers,  
26 and national organizations to coordinate efforts and maximize state  
27 and private resources in education regarding the risk factors

1 associated with infant death due to unsafe sleep practices and  
2 infant safe sleep practices.

3 (c) Provide educational and instructional materials that  
4 explain the risk factors associated with infant death due to unsafe  
5 sleep practices, that include methods to reduce the risk of infant  
6 death due to unsafe sleep, and that emphasize infant safe sleep  
7 practices.

8 Sec. 7203. (1) After considering the factors enumerated in  
9 section 7202(1), the administrator shall make findings with respect  
10 to those factors and promulgate a rule controlling the substance if  
11 the administrator finds the substance has a potential for abuse.

12 (2) If the administrator is notified in writing by the  
13 director of the department ~~of community health~~ under section 2251  
14 that a substance constitutes an imminent danger as defined in that  
15 section, the administrator shall consider the factors enumerated in  
16 section 7202(1) and (2) and make findings with respect to those  
17 factors and may do either or both of the following:

18 (a) Proceed under section 48(2) of the administrative  
19 procedures act of 1969, ~~1969 PA 306, MCL 28.248, 24.248~~, to  
20 schedule or reschedule the substance as a controlled substance by  
21 emergency rule.

22 (b) Initiate and pursue the process to promulgate a rule  
23 controlling the substance.

24 (3) The administrator may extend an emergency rule processed  
25 under subsection (2)(a) by filing a certificate of extension with  
26 the office of secretary of state before the expiration of the  
27 emergency rule as provided in section 48(2) of the administrative

1 procedures act of 1969, **MCL 24.248**.

2 (4) If the administrator designates a substance as an  
3 immediate precursor, a substance that is a precursor of the  
4 controlled precursor is not subject to control solely because it is  
5 a precursor of the controlled precursor.

6 Sec. 7411. (1) When an individual who has not previously been  
7 convicted of an offense under this article or under any statute of  
8 the United States or of any state relating to narcotic drugs, coca  
9 leaves, marihuana, or stimulant, depressant, or hallucinogenic  
10 drugs, pleads guilty to or is found guilty of possession of a  
11 controlled substance under section 7403(2)(a)(v), 7403(2)(b), (c),  
12 or (d), or of use of a controlled substance under section 7404, or  
13 possession or use of an imitation controlled substance under  
14 section 7341 for a second time, the court, without entering a  
15 judgment of guilt with the consent of the accused, may defer  
16 further proceedings and place the individual on probation upon  
17 terms and conditions that shall include, but are not limited to,  
18 payment of a probation supervision fee as prescribed in section 3c  
19 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL  
20 771.3c. The terms and conditions of probation may include  
21 participation in a drug treatment court under chapter 10A of the  
22 revised judicature act of 1961, 1961 PA 236, MCL 600.1060 to  
23 600.1084. Upon violation of a term or condition, the court may  
24 enter an adjudication of guilt and proceed as otherwise provided.  
25 Upon fulfillment of the terms and conditions, the court shall  
26 discharge the individual and dismiss the proceedings. Discharge and  
27 dismissal under this section shall be without adjudication of guilt

1 and, except as otherwise provided by law, is not a conviction for  
2 purposes of this section or for purposes of disqualifications or  
3 disabilities imposed by law upon conviction of a crime, including  
4 the additional penalties imposed for second or subsequent  
5 convictions under section 7413. There may be only 1 discharge and  
6 dismissal under this section as to an individual.

7 (2) All court proceedings under this section shall be open to  
8 the public. Except as provided in subsection (3), if the record of  
9 proceedings as to the defendant is deferred under this section, the  
10 record of proceedings during the period of deferral shall be closed  
11 to public inspection.

12 (3) Unless the court enters a judgment of guilt under this  
13 section, the department of state police shall retain a nonpublic  
14 record of the arrest, court proceedings, and disposition of the  
15 criminal charge under this section. ~~However, the~~ **THE** nonpublic  
16 record shall be open to the following individuals and entities for  
17 the purposes noted:

18 (a) The courts of this state, law enforcement personnel, the  
19 department of corrections, and prosecuting attorneys for use only  
20 in the performance of their duties or to determine whether an  
21 employee of the court, law enforcement agency, department of  
22 corrections, or prosecutor's office has violated his or her  
23 conditions of employment or whether an applicant meets criteria for  
24 employment with the court, law enforcement agency, department of  
25 corrections, or prosecutor's office.

26 (b) The courts of this state, law enforcement personnel, and  
27 prosecuting attorneys for the purpose of showing either of the

1 following:

2 (i) That a defendant has already once availed himself or  
3 herself of this section.

4 (ii) Determining whether the defendant in a criminal action is  
5 eligible for discharge and dismissal of proceedings by a drug  
6 treatment court under section 1076(5) of the revised judicature act  
7 of 1961, 1961 PA 236, MCL 600.1076.

8 (c) The department ~~of human services~~ for enforcing child  
9 protection laws and vulnerable adult protection laws or  
10 ascertaining the preemployment criminal history of any individual  
11 who will be engaged in the enforcement of child protection laws or  
12 vulnerable adult protection laws.

13 (4) For purposes of this section, a person subjected to a  
14 civil fine for a first violation of section 7341(4) shall not be  
15 considered to have previously been convicted of an offense under  
16 this article.

17 (5) Except as provided in subsection (6), if an individual is  
18 convicted of a violation of this article, other than a violation of  
19 section 7401(2)(a)(i) to (iv) or section 7403(2)(a)(i) to (iv), the  
20 court as part of the sentence, during the period of confinement or  
21 the period of probation, or both, may require the individual to  
22 attend a course of instruction or rehabilitation program approved  
23 by the department on the medical, psychological, and social effects  
24 of the misuse of drugs. The court may order the individual to pay a  
25 fee, as approved by the director, for the instruction or program.  
26 Failure to complete the instruction or program shall be considered  
27 a violation of the terms of probation.

1           (6) If an individual is convicted of a second violation of  
2 section 7341(4), before imposing sentence under subsection (1), the  
3 court shall order the person to undergo screening and assessment by  
4 a person or agency designated by the office of ~~substance abuse~~  
5 ~~services~~, **RECOVERY ORIENTED SYSTEMS OF CARE** to determine whether  
6 the person is likely to benefit from rehabilitative services,  
7 including alcohol or drug education and alcohol or drug treatment  
8 programs. As part of the sentence imposed under subsection (1), the  
9 court may order the person to participate in and successfully  
10 complete 1 or more appropriate rehabilitative programs. The person  
11 shall pay for the costs of the screening, assessment, and  
12 rehabilitative services. Failure to complete a program shall be  
13 considered a violation of the terms of the probation.

14           Sec. 7421. By February 1 each year, the department ~~of~~  
15 ~~community health~~ shall ascertain, document, and publish a report on  
16 the number, trends, patterns, and risk factors related to opioid-  
17 related overdose fatalities that occurred in this state in the  
18 preceding calendar year. The department shall include in the report  
19 information on interventions that would be effective in reducing  
20 the rate of fatal or nonfatal opioid-related overdoses in this  
21 state.

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

27           (2) The ultrasound equipment fund is created within the state



1 treasury. The state treasurer may receive money or other assets  
2 from any source for deposit into the fund including, but not  
3 limited to, state revenues, federal money, gifts, bequests,  
4 donations, and money from any other source provided by law. The  
5 state treasurer shall direct the investment of the fund. The state  
6 treasurer shall credit to the fund interest and earnings from fund  
7 investments. Money in the fund at the close of the fiscal year  
8 shall remain in the fund and shall not lapse to the general fund.

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

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

27 (5) The department shall not make a grant to a qualified

1 entity for the purchase of ultrasound equipment unless the  
2 following conditions are met:

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

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

6 (i) Shall have at least 1 ultrasound monitor that is fully  
7 accessible to the pregnant woman to view during the performance of  
8 her ultrasound.

9 (ii) Inform each pregnant woman upon whom the ultrasound  
10 equipment is used that she has the right to view the ultrasound  
11 image.

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

18 (iv) Certify in writing that the woman was offered an  
19 opportunity to view the ultrasound image, obtain the woman's  
20 acceptance or rejection to view the image in writing, and maintain  
21 a copy of each in the woman's medical file.

22 (v) Shall not use the ultrasound equipment to assist in the  
23 performance of an elective abortion.

24 (vi) Shall have a trained medical professional or a qualified  
25 medical director on staff to perform the ultrasound.

26 (6) The department shall annually prepare a report summarizing  
27 the grants made under this section, contractual commitments made

1 and achieved, and a preliminary evaluation of the effectiveness of  
2 this section and shall provide a copy of this report to the chairs  
3 of the house and senate appropriations subcommittees for the  
4 department. ~~of community health.~~

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

8 (8) As used in this section:

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

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

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

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

24 (B) ~~(c)~~ "Entity" means a local agency, organization, or  
25 corporation or a subdivision, contractee, subcontractee, or grant  
26 recipient of a local agency, organization, or corporation.

27 (C) ~~(d)~~ "Fund" means the ultrasound equipment fund created

1 under subsection (2).

2 (D) ~~(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. 9701. As used in this part:

9 (a) "Committee" means the Michigan pharmacy and therapeutics  
10 committee established by Executive Order No. 2001-8 and by section  
11 9705.

12 (b) "Controlled substance" means that term as defined in  
13 section 7104.

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

15 (C) ~~(d)~~—"Drug" means that term as defined in section 17703.

16 (D) ~~(e)~~—"Initiative" means the pharmaceutical best practices  
17 initiative established by this part.

18 (E) ~~(f)~~—"Medicaid" means the program of medical assistance  
19 established under title XIX of the social security act, 42 USC 1396  
20 to ~~1396v~~-1396W-5.

21 (F) ~~(g)~~—"Pharmacist" means an individual licensed by this  
22 state to engage in the practice of pharmacy under article 15.

23 (G) ~~(h)~~—"Physician" means an individual licensed by this state  
24 to engage in the practice of medicine or osteopathic medicine and  
25 surgery under article 15.

26 (H) ~~(i)~~—"Prescriber" means a licensed dentist, a licensed  
27 doctor of medicine, a licensed doctor of osteopathic medicine and

1 surgery, a licensed doctor of podiatric medicine and surgery, a  
2 licensed optometrist certified under part 174 to administer and  
3 prescribe therapeutic pharmaceutical agents, or another licensed  
4 health professional acting under the delegation and using,  
5 recording, or otherwise indicating the name of the delegating  
6 licensed doctor of medicine or licensed doctor of osteopathic  
7 medicine and surgery.

8 (I) ~~(j)~~—"Prescription" means that term as defined in section  
9 17708.

10 (J) ~~(k)~~—"Prescription drug" means that term as defined in  
11 section 17708.

12 (K) ~~(l)~~—"Type II transfer" means that term as defined in  
13 section 3 of the executive organization act of 1965, 1965 PA 380,  
14 MCL 16.103.

15 Sec. 10301. (1) The department may create, operate, and  
16 maintain the peace of mind registry, which shall contain the  
17 directives of voluntary registrants who are residents of this  
18 state. The peace of mind registry shall be created, operated, and  
19 maintained as provided in this act.

20 (2) The department may by contract delegate the creation,  
21 operation, and maintenance of a peace of mind registry to a peace  
22 of mind registry organization contingent upon the peace of mind  
23 registry organization incurring all of the cost related to design,  
24 maintain, and operate the registry.

25 (3) Both of the following conditions apply to a directive:

26 (a) A directive may be submittable through the United States  
27 mail, or through uploaded portable document format (PDF) or another

1 secure electronic format as determined by the department.

2 (b) A directive shall contain a signature line for the  
3 registrant.

4 (4) The peace of mind registry shall meet all of the following  
5 requirements:

6 (a) Be accessible to registrants, health care providers, and  
7 the department by way of a designated user identification and  
8 password.

9 (b) Store all an individual's directive. ~~However, the~~ **THE** most  
10 recently signed directive supersedes any earlier directive.

11 (c) Provide electronic access to stored directives on a  
12 continuous basis at no cost to the health care providers and allow  
13 health care providers to transmit directives into their respective  
14 electronic medical records.

15 (d) Provide electronic storage and access to directives  
16 submitted at no cost to the registrant.

17 (e) Include a unique identifier-searchable database,  
18 including, but not limited to, the last 4 digits of an individual's  
19 social security number and the individual's date of birth and  
20 address.

21 (5) The department ~~, AND~~ the secretary of state ~~, and the~~  
22 ~~department of human services~~ shall each provide on its public  
23 website information on directives and the peace of mind registry.  
24 The department ~~, AND~~ the secretary of state ~~, and the department of~~  
25 ~~human services~~ shall promote public awareness of the advantages of  
26 creating directives and the availability of the registry.

27 (6) The peace of mind registry shall satisfy all of the

1 following conditions to the satisfaction of the department:

2 (a) Maintain a record of each individual who files a directive  
3 to be stored in the peace of mind registry and make the record  
4 available to the department.

5 (b) Create and provide forms for the registration of a  
6 directive.

7 (c) Create and provide forms for the revocation of a  
8 directive.

9 (7) The department and the peace of mind registry organization  
10 shall ensure the privacy and security of all documents and  
11 information submitted to, transmitted from, or stored in the peace  
12 of mind registry. The department and any person who accesses the  
13 peace of mind registry shall comply with all other provisions of  
14 this act and any other law of this state or federal law  
15 establishing privacy and security standards applicable to health or  
16 other personal identifying information.

17 (8) Information in the peace of mind registry shall not be  
18 accessed or used for any purpose unrelated to decision making for  
19 health care or disposition of human remains, except that the  
20 information may be used solely by the department or its designee  
21 for statistical or analytical purposes if the individual's identity  
22 is not revealed and all personal identifying information remains  
23 confidential.

24 (9) The department or its designee shall provide both of the  
25 following to an individual who files a directive with the peace of  
26 mind registry to be stored in the registry:

27 (a) A wallet-sized card indicating that the holder has a

1 directive in the registry.

2 (b) An electronic mail message or postcard indicating  
3 confirmation of the registration of a directive.

4 (10) By January 31 of each year, the department or peace of  
5 mind organization, as applicable, shall report to the standing  
6 committees of the house of representatives and senate on health  
7 policy stating the total number of current and new registrants who  
8 have submitted directives during the preceding calendar year.

9 (11) The department may promulgate rules under the  
10 administrative procedures act of 1969 , ~~1969 PA 306, MCL 24.201 to~~  
11 ~~24.328,~~ to provide for the implementation and administration of  
12 this section.

13 (12) A peace of mind registry organization, with which the  
14 department has contracted under subsection (2), and its employees  
15 are immune from civil liability arising from the accuracy or  
16 content of the registry, except in the case of willful negligence  
17 or gross negligence.

18 (13) A directive that was filed with and stored in the peace  
19 of mind registry shall not be considered to be of greater legal  
20 weight or validity solely by virtue of that filing and storage.

21 (14) As used in this section:

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

23 (A) ~~(b)~~ "Directive" means a document that is registered or  
24 filed with the peace of mind registry as provided in this act and  
25 that is either of the following:

26 (i) A durable power of attorney and designation of patient  
27 advocate under part 5 of article V of the estates and protected



1 individuals code, 1998 PA 386, MCL 700.5501 to 700.5520.

2 (ii) A signed or authorized record concerning an anatomical  
3 gift containing a donor's direction concerning a health care  
4 decision for the donor under the revised uniform anatomical gift  
5 law, sections 10101 to 10123.

6 (B) ~~(e)~~—"Health care provider" means any of the following:

7 (i) A health professional licensed, registered, or otherwise  
8 authorized to engage in a health profession under part 170, 172, or  
9 175, or a law of another state substantially similar to part 170,  
10 172, or 175.

11 (ii) A health facility or agency licensed or certified under  
12 article 17 or a law of another state substantially similar to  
13 article 17.

14 (C) ~~(d)~~—"Peace of mind registry" or "registry" means an  
15 internet website containing access to directives as provided under  
16 this act.

17 (D) ~~(e)~~—"Peace of mind registry organization" means an  
18 organization certified or recertified by the secretary of the  
19 United States ~~department of health and human services~~ **DEPARTMENT OF**  
20 **HEALTH AND HUMAN SERVICES** as a qualified organ procurement  
21 organization under 42 USC 273(b), or its successor organization.

22 (E) ~~(f)~~—"Sign" means that, with the present intent to  
23 authenticate or adopt a record, an individual does either of the  
24 following:

25 (i) Executes or adopts a tangible symbol.

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

1           Sec. 12103. (1) The department of environmental quality shall  
2 serve as the environmental health agency for this state to  
3 facilitate a uniform approach to environmental health by the  
4 various public and private entities involved in that field and  
5 shall:

6           (a) Advise the governor, boards, commissions, and state  
7 agencies on matters of the environment as those matters affect the  
8 health of the people of this state.

9           (b) Cooperate with and provide environmental health resource  
10 support to state and local health planning agencies and other  
11 state, district, and local agencies mandated by law or otherwise  
12 designated to develop, maintain, or administer state and local  
13 health programs and plans, and other public and private entities  
14 involved in environmental health activities.

15           (c) Develop and maintain the capability to monitor and  
16 evaluate conditions which represent potential and actual  
17 environmental health hazards, reporting its findings to appropriate  
18 state departments and local jurisdictions, and to the public as  
19 necessary.

20           (d) Provide an environmental health policy for the state and  
21 an environmental health services plan to include environmental  
22 health activities of local health jurisdictions.

23           (e) Serve as the central repository and clearinghouse for the  
24 collection, evaluation, and dissemination of data and information  
25 on environmental health hazards, programs, and practices.

26           (2) ~~Within 6 months after the effective date of the amendatory~~  
27 ~~act that added this subsection, the~~ **THE** department, ~~of community~~

1 ~~health~~, in consultation with the department of environmental  
2 quality, shall develop a cleanup of clandestine drug labs guidance  
3 document that includes, but is not limited to, detailed protocols  
4 for the preliminary site assessment, remediation, and post-cleanup  
5 assessment of indoor environments and structures and cleanup  
6 criteria based on human health risk that is similar to the cleanup  
7 criteria derived under section 20120a of the natural resources and  
8 environmental protection act, 1994 PA 451, MCL 324.20120a, and  
9 shall promulgate rules and procedures necessary to implement  
10 subsection (3). The department of ~~community health~~ shall make the  
11 guidance document available to the public on its website and, upon  
12 request from a local health department, shall provide that local  
13 health department with a physical copy of the guidance document.

14 (3) Within 48 hours of discovering an illegal drug  
15 manufacturing site, a state or local law enforcement agency shall  
16 notify the local health department and the department of ~~community~~  
17 ~~health~~ regarding the potential contamination of any property or  
18 dwelling that is or has been the site of illegal drug  
19 manufacturing. The state or local law enforcement agency shall post  
20 a written warning on the premises stating that potential  
21 contamination exists and may constitute a hazard to the health or  
22 safety of those who may occupy the premises. Within 14 days after  
23 receipt of the notification under this subsection or as soon  
24 thereafter as practically possible, the department, of ~~community~~  
25 ~~health~~, in cooperation with the local health department, shall  
26 review the information received from the state or local law  
27 enforcement agency, emergency first responders, or hazardous

1 materials team that was called to the site and make a determination  
2 regarding whether the premises are likely to be contaminated and  
3 whether that contamination may constitute a hazard to the health or  
4 safety of those who may occupy the premises. The fact that property  
5 or a dwelling has been used as a site for illegal drug  
6 manufacturing shall be treated by the department ~~of community~~  
7 ~~health~~ as prima facie evidence of likely contamination that may  
8 constitute a hazard to the health or safety of those who may occupy  
9 those premises. If the property or dwelling, or both, is determined  
10 likely to be contaminated under this subsection, the local health  
11 department or the department ~~of community health~~ shall issue an  
12 order requiring the property or dwelling to be vacated until the  
13 property owner establishes that the property is decontaminated or  
14 the risk of likely contamination ceases to exist. The property  
15 owner may establish that the property is decontaminated by  
16 submitting a written assessment of the property before  
17 decontamination and a written assessment of the property after  
18 decontamination, enumerating the steps taken to render the property  
19 decontaminated, and a certification that the property has been  
20 decontaminated and that the risk of likely contamination no longer  
21 exists to the enforcing agency. The property or dwelling shall  
22 remain vacated until the enforcing agency has reviewed and  
23 concurred in the certification. As used in this subsection,  
24 "dwelling" means any house, building, structure, tent, shelter,  
25 trailer or vehicle, or portion thereof, except railroad cars on  
26 tracks or rights-of-way, ~~which~~ **THAT** is occupied in whole or in part  
27 as the home, residence, living, or sleeping place of 1 or more

1 human beings, either permanently or transiently.

2           Sec. 16204a. (1) Subject to subsection (2), an advisory  
3 committee on pain and symptom management is created in the  
4 department. The committee consists of the following members  
5 appointed in the following manner:

6           (a) The Michigan board of medicine created in part 170 and the  
7 Michigan board of osteopathic medicine and surgery created in part  
8 175 each shall appoint 2 members, 1 of whom is a physician  
9 specializing in primary care and 1 of whom is a physician certified  
10 in the specialty of pain medicine by 1 or more national  
11 professional organizations approved by the department, ~~of consumer~~  
12 ~~and industry services,~~ including, but not limited to, the American  
13 ~~board of medical specialists~~ **BOARD OF MEDICAL SPECIALISTS** or the  
14 American ~~board of pain medicine~~ **BOARD OF PAIN MEDICINE**.

15           (b) One psychologist who is associated with the education and  
16 training of psychology students, appointed by the Michigan board of  
17 psychology created in part 182.

18           (c) One individual appointed by the governor who is  
19 representative of the general public.

20           (d) One registered professional nurse with training in pain  
21 and symptom management who is associated with the education and  
22 training of nursing students, appointed by the Michigan board of  
23 nursing created in part 172.

24           (e) One dentist with training in pain and symptom management  
25 who is associated with the education and training of dental  
26 students, appointed by the Michigan board of dentistry created in  
27 part 166.

1 (f) One pharmacist with training in pain and symptom  
2 management who is associated with the education and training of  
3 pharmacy students appointed by the Michigan board of pharmacy  
4 created in part 177.

5 (g) One individual appointed by the governor who represents  
6 the Michigan ~~hospice organization~~ **HOSPICE ORGANIZATION** or its  
7 successor.

8 (h) One representative from each of the state's medical  
9 schools, appointed by the governor.

10 (i) One individual appointed by the governor who has been  
11 diagnosed as a chronic pain sufferer.

12 (j) One physician's assistant with training in pain and  
13 symptom management appointed by the Michigan task force on  
14 physician's assistants.

15 (k) The director of the department ~~of consumer and industry~~  
16 ~~services~~ or his or her designee, who shall serve as chairperson.

17 (l) The director of the department of ~~community health~~ **AND**  
18 **HUMAN SERVICES** or his or her designee.

19 (2) Advisory committee members appointed under subsection  
20 (1)(a) ~~through~~ **TO** (j) shall receive per diem compensation as  
21 established by the legislature and shall be reimbursed for expenses  
22 under section 1216.

23 (3) ~~The advisory committee members appointed under subsection~~  
24 ~~(1)(a) through (j) shall be appointed by May 15, 1999.~~ A member of  
25 the advisory committee shall serve for a term of 2 years or until a  
26 successor is appointed, whichever is later. A vacancy on the  
27 advisory committee shall be filled in the same manner as the

1 original appointment.

2 (4) The advisory committee shall do all of the following, as  
3 necessary:

4 (a) At least once annually consult with all of the following  
5 boards to develop an integrated approach to understanding and  
6 applying pain and symptom management techniques:

7 (i) All licensure boards created under this article, except  
8 the Michigan board of veterinary medicine.

9 (ii) The Michigan board of social work created in section  
10 18505.

11 (b) Hold a public hearing in the same manner as provided for a  
12 public hearing held under the administrative procedures act of  
13 1969, within 90 days after the members of the advisory committee  
14 are appointed under subsection (1) to gather information from the  
15 general public on issues pertaining to pain and symptom management.

16 (c) Develop and encourage the implementation of model core  
17 curricula on pain and symptom management.

18 (d) Develop recommendations to the licensing and registration  
19 boards and the task force created under this article on integrating  
20 pain and symptom management into the customary practice of health  
21 care professionals and identifying the role and responsibilities of  
22 the various health care professionals in pain and symptom  
23 management.

24 (e) Advise the licensing and registration boards created under  
25 this article on the duration and content of continuing education  
26 requirements for pain and symptom management.

27 (f) Annually report on the activities of the advisory

1 committee and make recommendations on the following issues to the  
2 director of the department ~~of consumer and industry services~~ and to  
3 the director of the department of ~~community health~~ **AND HUMAN**

4 **SERVICES:**

5 (i) Pain management educational curricula and continuing  
6 educational requirements of institutions providing health care  
7 education.

8 (ii) Information about the impact and effectiveness of  
9 previous recommendations, if any, that have been implemented,  
10 including, but not limited to, recommendations made under  
11 subdivision (d).

12 (iii) Activities undertaken by the advisory committee in  
13 complying with the duties imposed under subdivisions (c) and (d).

14 (g) ~~Beginning in January of 2000, annually~~ **ANNUALLY** review any  
15 changes occurring in pain and symptom management.

16 (5) In making recommendations and developing written materials  
17 under subsection (4), the advisory committee shall review  
18 guidelines on pain and symptom management issued by the United  
19 States ~~department of health and human services~~. **DEPARTMENT OF HEALTH**  
20 **AND HUMAN SERVICES.**

21 Sec. 16204d. (1) The department, ~~of consumer and industry~~  
22 ~~services~~, in consultation with the department of ~~community health~~  
23 **AND HUMAN SERVICES**, shall develop, publish, and distribute an  
24 informational booklet on pain. The department ~~of consumer and~~  
25 ~~industry services~~ shall include at least all of the following in  
26 the informational booklet:

27 (a) Pain management educational curricula and continuing



1 educational requirements of institutions providing health care  
2 education recommended by the advisory committee on pain and symptom  
3 management under section 16204a.

4 (b) Other information considered relevant or useful by the  
5 department. ~~of consumer and industry services.~~

6 (2) The department, ~~of consumer and industry services,~~ in  
7 conjunction with the controlled substances advisory commission  
8 created in article 7, shall develop and conduct an educational  
9 program for health professionals who are licensed under part 73 to  
10 prescribe or dispense, or both, controlled substances. The  
11 department ~~of consumer and industry services~~ shall include, at a  
12 minimum, all of the following in the educational program:

13 (a) Information on how the department ~~of consumer and industry~~  
14 ~~services~~ processes allegations of wrongdoing against licensees  
15 under this article and article 17, including, but not limited to,  
16 how the permanent historical record is maintained for each  
17 licensee, how and why a review of the permanent historical record  
18 is done, and how the decision is made to issue a formal complaint  
19 against a licensee.

20 (b) Information on the disciplinary process, including a  
21 licensee's rights and duties if an allegation of wrongdoing is  
22 filed against the licensee or if some other circumstance occurs  
23 that causes or requires the department ~~of consumer and industry~~  
24 ~~services~~ to review a licensee's permanent historical record.

25 (c) Other information considered relevant or useful by the  
26 department ~~of consumer and industry services~~ or the controlled  
27 substances advisory commission, especially information that would

1 address the findings and statements of intent contained in section  
2 16204c.

3       Sec. 16241. (1) After administrative disciplinary action is  
4 final, the department shall publish a list of the names and  
5 addresses of disciplined individuals. The department shall indicate  
6 on the list that a final administrative disciplinary action is  
7 subject to judicial review. The department shall report  
8 disciplinary action to the department of ~~community~~-health **AND HUMAN**  
9 **SERVICES**, the department of insurance and financial services, the  
10 state and federal agencies responsible for fiscal administration of  
11 federal health care programs, and the appropriate professional  
12 association.

13       (2) Once each calendar year, the department shall transmit to  
14 the library of Michigan sufficient copies of a compilation of the  
15 lists required under subsection (1) for the immediately preceding 3  
16 calendar years. The library of Michigan shall distribute the  
17 compilation to each depository library in this state. The  
18 department shall also transmit the compilation to each county clerk  
19 in this state once each calendar year.

20       (3) The department of ~~community~~-health **AND HUMAN SERVICES**  
21 shall report the disciplinary actions to appropriate licensed  
22 health facilities and agencies. The department of insurance and  
23 financial services shall report the disciplinary actions received  
24 from the department to insurance carriers providing professional  
25 liability insurance.

26       (4) In case of a summary suspension of a license under section  
27 16233(5), the department shall report the name and address of the

1 individual whose license has been suspended to the department of  
2 ~~community health~~ **AND HUMAN SERVICES**, the department of insurance  
3 and financial services, the state and federal agencies responsible  
4 for fiscal administration of federal health care programs, and the  
5 appropriate professional association. In case of a summary  
6 suspension of a license under section 16233(6), the department  
7 shall report the name and address of the pharmacy license that has  
8 been suspended to the department of ~~community health~~ **AND HUMAN**  
9 **SERVICES**, the department of insurance and financial services, the  
10 state and federal agencies responsible for fiscal administration of  
11 federal health care programs, and the appropriate professional  
12 association.

13 (5) A licensee or registrant whose license or registration is  
14 revoked or suspended under this article shall give notice of the  
15 revocation or suspension to each patient who contacts the licensee  
16 or registrant for professional services during the term of the  
17 revocation or suspension. The licensee or registrant may give the  
18 notice required under this subsection orally and shall give the  
19 notice required under this subsection at the time of contact.

20 (6) A licensee or registrant whose license or registration is  
21 revoked or is suspended for more than 60 days under this article  
22 shall notify in writing each patient or client to whom the licensee  
23 or registrant rendered professional services in the licensee's or  
24 registrant's private practice during the 120 days immediately  
25 preceding the date of the final order imposing the revocation or  
26 suspension and to each individual who is already scheduled for  
27 professional services during the first 120 days after the date of

1 the final order imposing the revocation or suspension. The notice  
2 must be on a form provided by the licensee's or registrant's board  
3 or task force and state, at a minimum, the name, address, and  
4 license or registration number of the licensee or registrant, the  
5 fact that his or her license or registration has been revoked or  
6 suspended, the effective date of the revocation or suspension, and  
7 the term of the revocation or suspension. Each board or task force  
8 shall develop a notice form that meets at least the minimum  
9 requirements of this subsection. The licensee or registrant shall  
10 send the notice to each patient or client to whom the licensee or  
11 registrant rendered professional services in the licensee's or  
12 registrant's private practice during the 120 days immediately  
13 preceding the date of the final order imposing the revocation or  
14 suspension within 30 days after the date of the final order  
15 imposing the revocation or suspension and shall simultaneously  
16 transmit a copy of the notice to the department. The licensee or  
17 registrant orally shall notify each individual who contacts the  
18 licensee or registrant for professional services during the first  
19 120 days after the date of the final order imposing the revocation  
20 or suspension. The licensee or registrant shall also provide a copy  
21 of the notice within 10 days after the date of the final order  
22 imposing the revocation or suspension to his or her employer, if  
23 any, and to each hospital, if any, in which the licensee or  
24 registrant is admitted to practice.

25 (7) A licensee or registrant who is reprimanded, fined, placed  
26 on probation, or ordered to pay restitution under this article or  
27 an applicant whose application for licensure or registration is

1 denied under this article shall notify his or her employer, if any,  
2 and each hospital, if any, in which he or she is admitted to  
3 practice, in the same manner as provided for notice of revocation  
4 or suspension to an employer or hospital under subsection (6),  
5 within 10 days after the date of the final order imposing the  
6 sanction.

7 (8) The department shall annually report to the legislature  
8 and to each board and task force on disciplinary actions taken  
9 under this article, article 7, and article 8. The department shall  
10 include, at a minimum, all of the following information in the  
11 report required under this subsection:

12 (a) Investigations conducted, complaints issued, and  
13 settlements reached by the department, separated out by type of  
14 complaint and health profession.

15 (b) Investigations and complaints closed or dismissed.

16 (c) Actions taken by each disciplinary subcommittee, separated  
17 out by type of complaint, health profession, and final order  
18 issued.

19 (d) Recommendations by boards and task forces.

20 (e) The number of extensions and delays granted by the  
21 department that were in excess of the time limits required under  
22 this article for each phase of the disciplinary process, and the  
23 types of cases for which the extensions and delays were granted.

24 Sec. 16281. (1) If there is a compelling need for records or  
25 information to determine whether child abuse or child neglect has  
26 occurred or to take action to protect a child where there may be a  
27 substantial risk of harm, a ~~family independence agency~~ **DEPARTMENT**

1 **OF HEALTH AND HUMAN SERVICES** caseworker or administrator directly  
2 involved in the child abuse or **CHILD** neglect investigation shall  
3 notify a licensee or registrant that a child abuse or **CHILD** neglect  
4 investigation has been initiated regarding a child who has received  
5 services from the licensee or registrant and shall request in  
6 writing the child's medical records and information that are  
7 pertinent to that investigation. Upon receipt of this notification  
8 and request, the licensee or registrant shall review all of the  
9 child's medical records and information in the licensee's or  
10 registrant's possession to determine if there are medical records  
11 or information that is pertinent to that investigation. Within 14  
12 days after receipt of a request made under this subsection, the  
13 licensee or registrant shall release those pertinent medical  
14 records and information to the **DEPARTMENT OF HEALTH AND HUMAN**  
15 **SERVICES** caseworker or administrator directly involved in the child  
16 abuse or **CHILD** neglect investigation.

17 (2) The following privileges do not apply to medical records  
18 or information released or made available under subsection (1):

19 (a) The physician-patient privilege created in section 2157 of  
20 the revised judicature act of 1961, 1961 PA 236, MCL 600.2157.

21 (b) The dentist-patient privilege created in section 16648.

22 (c) The licensed professional counselor-client and limited  
23 licensed counselor-client privilege created in section 18117.

24 (d) The psychologist-patient privilege created in section  
25 18237.

26 (e) Any other health professional-patient privilege created or  
27 recognized by law.

1           (3) To the extent not protected by the immunity conferred by  
2 1964 PA 170, MCL 691.1401 to 691.1415, an individual who in good  
3 faith provides access to medical records or information under this  
4 section is immune from civil or administrative liability arising  
5 from that conduct, unless the conduct was gross negligence or  
6 willful and wanton misconduct.

7           (4) This section does not apply to a report, record, datum, or  
8 information whose confidentiality and disclosure are governed by  
9 section 5131.

10           (5) A duty under this act relating to child abuse and **CHILD**  
11 neglect does not alter a duty imposed under another statute,  
12 including the child protection law, 1975 PA 238, MCL 722.621 to  
13 722.638, regarding the reporting or investigation of child abuse or  
14 **CHILD** neglect.

15           Sec. 16315. (1) The health professions regulatory fund is  
16 established in the state treasury. Except as otherwise provided in  
17 this section, the state treasurer shall credit the fees collected  
18 under sections 16319 to 16349 to the health professions regulatory  
19 fund. The money in the health professions regulatory fund shall be  
20 expended only as provided in subsection (5).

21           (2) The state treasurer shall direct the investment of the  
22 health professions regulatory fund. Interest and earnings from  
23 health professions regulatory fund investment shall be credited to  
24 the health professions regulatory fund.

25           (3) The unencumbered balance in the health professions  
26 regulatory fund at the close of the fiscal year shall remain in the  
27 health professions regulatory fund and shall not revert to the

1 general fund.

2 (4) The health professions regulatory fund may receive gifts  
3 and devises and other money as provided by law.

4 (5) The department shall use the health professions regulatory  
5 fund to carry out its powers and duties under this article, article  
6 7, and article 8, including, but not limited to, reimbursing the  
7 department of attorney general for the reasonable cost of services  
8 provided to the department under this article, article 7, and  
9 article 8.

10 (6) The nurse professional fund is established in the state  
11 treasury. Of the money that is attributable to per-year license  
12 fees collected under section 16327, the state treasurer shall  
13 credit \$8.00 of each individual annual license fee collected to the  
14 nurse professional fund. The money in the nurse professional fund  
15 shall be expended only as provided in subsection (9).

16 (7) The state treasurer shall direct the investment of the  
17 nurse professional fund, and shall credit interest and earnings  
18 from the investment to the nurse professional fund. The nurse  
19 professional fund may receive gifts and devises and other money as  
20 provided by law.

21 (8) The unencumbered balance in the nurse professional fund at  
22 the close of the fiscal year shall remain in the nurse professional  
23 fund and shall not revert to the general fund.

24 (9) The department of ~~community health~~ **AND HUMAN SERVICES**  
25 shall use the nurse professional fund each fiscal year only as  
26 follows:

27 (a) To promote safe patient care in all nursing practice



1 environments.

2 (b) To advance the safe practice of the nursing profession.

3 (c) To ~~assure~~**ENSURE** a continuous supply of high-quality  
4 direct care nurses, nursing faculty, and nursing education  
5 programs.

6 (d) To operate a nursing scholarship program.

7 (10) The pain management education and controlled substances  
8 electronic monitoring and antidiversion fund is established in the  
9 state treasury.

10 (11) The state treasurer shall direct the investment of the  
11 pain management education and controlled substances electronic  
12 monitoring and antidiversion fund. Interest and earnings from  
13 investment of the pain management education and controlled  
14 substances electronic monitoring and antidiversion fund shall be  
15 credited to the pain management education and controlled substances  
16 electronic monitoring and antidiversion fund.

17 (12) The unencumbered balance in the pain management education  
18 and controlled substances electronic monitoring and antidiversion  
19 fund at the close of the fiscal year shall remain in the pain  
20 management education and controlled substances electronic  
21 monitoring and antidiversion fund and shall not revert to the  
22 general fund. The pain management education and controlled  
23 substances electronic monitoring and antidiversion fund may receive  
24 gifts and devises and other money as provided by law. Twenty  
25 dollars of the license fee received by the department under section  
26 16319 shall be deposited with the state treasurer to the credit of  
27 the pain management education and controlled substances electronic

1 monitoring and antidiversion fund. The department shall use the  
2 pain management education and controlled substances electronic  
3 monitoring and antidiversion fund only in connection with programs  
4 relating to pain management education for health professionals,  
5 preventing the diversion of controlled substances, and development  
6 and maintenance of the electronic monitoring system for controlled  
7 substances data required by section 7333a.

8       Sec. 16625. (1) The board may promulgate rules to prohibit or  
9 otherwise restrict the assignment of procedures to a dental  
10 hygienist or a dental assistant if the board determines that the  
11 assignment constitutes or may constitute a danger to the health,  
12 safety, or welfare of the patient or the public.

13       (2) Notwithstanding section 16601(1)(f) or the rules  
14 promulgated under subsection (1), a dental hygienist may perform  
15 dental hygiene services under the supervision of a dentist as part  
16 of a program for dentally underserved populations in this state  
17 conducted by a local, state, or federal grantee health agency for  
18 patients who are not assigned by a dentist. The director of  
19 ~~community~~**THE DEPARTMENT OF** health **AND HUMAN SERVICES** shall  
20 designate a person as a grantee health agency for a 2-year period  
21 if the person applies to the department of ~~community~~ health **AND**  
22 **HUMAN SERVICES** on a form provided by the department of ~~community~~  
23 health **AND HUMAN SERVICES** and meets all of the following  
24 requirements:

25       (a) Is a public or nonprofit entity, or a school or nursing  
26 home, that administers a program of dental care to a dentally  
27 underserved population.

1 (b) Employs or contracts with at least 1 dentist or 1 dental  
2 hygienist.

3 (c) Submits a program overview indicating the approximate  
4 population to be served, the method by which the service is to be  
5 provided, the procedures for program oversight and direction, and  
6 the name and license number of the dentist and dental hygienist, if  
7 applicable, who are performing services under the program.

8 (3) Within 10 business days after the department approves an  
9 application and designates a grantee health agency under subsection  
10 (2), the department shall notify the board of the designation in  
11 writing or make the information electronically available.

12 (4) The director of ~~community~~**THE DEPARTMENT OF** health **AND**  
13 **HUMAN SERVICES** may appoint an advisory committee to assist the  
14 director of ~~community~~**THE DEPARTMENT OF** health **AND HUMAN SERVICES**  
15 in designating grantee health agencies under subsection (2). If the  
16 director of ~~community~~**THE DEPARTMENT OF** health **AND HUMAN SERVICES**  
17 does appoint an advisory committee under this subsection, the  
18 director of ~~community~~**THE DEPARTMENT OF** health **AND HUMAN SERVICES**  
19 shall include on the advisory committee, at a minimum, a  
20 representative from the Michigan ~~dental-hygienist-association~~  
21 **DENTAL HYGIENISTS' ASSOCIATION** or its successor organization and a  
22 representative from the Michigan ~~dental-association~~**DENTAL**  
23 **ASSOCIATION** or its successor organization.

24 (5) As used in this section:

25 (a) "Nursing home" means that term as defined under section  
26 20109.

27 (b) "School" means a public or private elementary or secondary

1 institution of learning for any grade from kindergarten to 12.

2 (c) "Supervision" means the overseeing of or participation in  
3 the work of any other individual by a health professional licensed  
4 under this article in circumstances in which 1 or more of the  
5 following exist:

6 (i) The continuous availability of direct communication in  
7 person or by radio, telephone, or telecommunication between the  
8 supervised individual and a licensed health professional.

9 (ii) The availability of a licensed health professional on a  
10 regularly scheduled basis to review the practice of the supervised  
11 individual, to provide consultation to the supervised individual,  
12 to review records, and to further educate the supervised individual  
13 in the performance of the individual's functions.

14 (iii) The provision by the licensed supervising health  
15 professional of predetermined procedures and drug protocol.

16 Sec. 16807. This part does not limit any of the following:

17 (a) An individual employed by a regionally accredited college  
18 or university and involved with research or the teaching of  
19 communication disorders from performing those duties for which he  
20 or she is employed by that institution, as long as the individual  
21 does not engage in the practice of audiology or hold himself or  
22 herself out as licensed or otherwise authorized under this article  
23 as an audiologist.

24 (b) An individual who is employed by the department of  
25 ~~community health~~ **AND HUMAN SERVICES** in 1 of its approved hearing  
26 screening training programs from conducting screening of hearing  
27 sensitivity.

1 (c) An individual certified by an agency acceptable to the  
2 occupational health standards commission from engaging in hearing  
3 screening as part of a hearing conservation program in compliance  
4 with standards adopted under the Michigan occupational safety and  
5 health act, 1974 PA 154, MCL 408.1001 to 408.1094.

6 (d) A certified, licensed, registered, or otherwise  
7 statutorily recognized member of another profession, including a  
8 person licensed in the practice of medicine or osteopathic medicine  
9 and surgery and an unlicensed or licensed person to whom tasks have  
10 been delegated under his or her supervision, and including a person  
11 licensed under article 13 of the occupational code, 1980 PA 299,  
12 MCL 339.1301 to 339.1309, from practicing his or her profession as  
13 authorized by law, so long as the individual does not hold himself  
14 or herself out to the public as possessing a license issued or  
15 title protected under this article.

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

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

21 (a) "Abortion" means the intentional use of an instrument,  
22 drug, or other substance or device to terminate a woman's pregnancy  
23 for a purpose other than to increase the probability of a live  
24 birth, to preserve the life or health of the child after live  
25 birth, or to remove a fetus that has died as a result of natural  
26 causes, accidental trauma, or a criminal assault on the pregnant  
27 woman. Abortion does not include the use or prescription of a drug

1 or device intended as a contraceptive.

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

6 (c) "Domestic violence" means that term as defined in section  
7 1 of 1978 PA 389, MCL 400.1501.

8 (d) "Fetus" means an individual organism of the species homo  
9 sapiens in utero.

10 (e) "Local health department representative" means a person  
11 who meets 1 or more of the licensing requirements listed in  
12 subdivision (h) and who is employed by, or under contract to  
13 provide services on behalf of, a local health department.

14 (f) "Medical emergency" means that condition which, on the  
15 basis of the physician's good faith clinical judgment, so  
16 complicates the medical condition of a pregnant woman as to  
17 necessitate the immediate abortion of her pregnancy to avert her  
18 death or for which a delay will create serious risk of substantial  
19 and irreversible impairment of a major bodily function.

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

24 (h) "Qualified person assisting the physician" means another  
25 physician or a physician's assistant licensed under this part or  
26 part 175, a fully licensed or limited licensed psychologist  
27 licensed under part 182, a professional counselor licensed under

1 part 181, a registered professional nurse or a licensed practical  
2 nurse licensed under part 172, or a social worker licensed under  
3 part 185.

4 (i) "Probable gestational age of the fetus" means the  
5 gestational age of the fetus at the time an abortion is planned to  
6 be performed.

7 (j) "Provide the patient with a physical copy" means  
8 confirming that the patient accessed the internet website described  
9 in subsection (5) and received a printed valid confirmation form  
10 from the website and including that form in the patient's medical  
11 record or giving a patient a copy of a required document by 1 or  
12 more of the following means:

13 (i) In person.

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

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

17 (iv) By facsimile transmission.

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

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

25 (b) Orally describe, in language designed to be understood by  
26 the patient, taking into account her age, level of maturity, and  
27 intellectual capability, each of the following:

1 (i) The probable gestational age of the fetus she is carrying.

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

4 (iii) Information about how to obtain pregnancy prevention  
5 information through the department of ~~community-health~~ **AND HUMAN**  
6 **SERVICES**.

7 (c) Provide the patient with a physical copy of the written  
8 standardized summary described in subsection (11)(b) that  
9 corresponds to the procedure the patient will undergo and is  
10 provided by the department of ~~community-health~~ **AND HUMAN SERVICES**.  
11 If the procedure has not been recognized by the department **OF**  
12 **HEALTH AND HUMAN SERVICES**, but is otherwise allowed under Michigan  
13 law, and the department **OF HEALTH AND HUMAN SERVICES** has not  
14 provided a written standardized summary for that procedure, the  
15 physician shall develop and provide a written summary that  
16 describes the procedure, any known risks or complications of the  
17 procedure, and risks associated with live birth and meets the  
18 requirements of subsection (11)(b) (iii) ~~through~~ **TO** (vii).

19 (d) Provide the patient with a physical copy of a medically  
20 accurate depiction, illustration, or photograph and description of  
21 a fetus supplied by the department of ~~community-health~~ ~~pursuant to~~  
22 **AND HUMAN SERVICES UNDER** subsection (11)(a) at the gestational age  
23 nearest the probable gestational age of the patient's fetus.

24 (e) Provide the patient with a physical copy of the prenatal  
25 care and parenting information pamphlet distributed by the  
26 department of ~~community-health~~ **AND HUMAN SERVICES** under section  
27 9161.



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

4 (4) The requirements of subsection (3) may be fulfilled by the  
5 physician or a qualified person assisting the physician at a  
6 location other than the health facility where the abortion is to be  
7 performed. The requirement of subsection (3) (a) that a patient's  
8 pregnancy be confirmed may be fulfilled by a local health  
9 department under subsection (18). The requirements of subsection  
10 (3) cannot be fulfilled by the patient accessing an internet  
11 website other than the internet website that is maintained and  
12 operated by the department **OF HEALTH AND HUMAN SERVICES** under  
13 subsection (11) (g).

14 (5) The requirements of subsection (3) (c) ~~through~~ **TO** (f) may  
15 be fulfilled by a patient accessing the internet website that is  
16 maintained and operated by the department **OF HEALTH AND HUMAN**  
17 **SERVICES** under subsection (11) (g) and receiving a printed, valid  
18 confirmation form from the website that the patient has reviewed  
19 the information required in subsection (3) (c) through (f) at least  
20 24 hours before an abortion being performed on the patient. The  
21 website shall not require any information be supplied by the  
22 patient. The department **OF HEALTH AND HUMAN SERVICES** shall not  
23 track, compile, or otherwise keep a record of information that  
24 would identify a patient who accesses this website. The patient  
25 shall supply the valid confirmation form to the physician or  
26 qualified person assisting the physician to be included in the  
27 patient's medical record to comply with this subsection.

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

5           (a) Provide the patient with the physician's name, confirm  
6 with the patient that the coercion to abort screening required  
7 under section 17015a was performed, and inform the patient of her  
8 right to withhold or withdraw her consent to the abortion at any  
9 time before performance of the abortion.

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

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

17           (ii) The specific risk of complications, if any, to the  
18 patient if she chooses to continue the pregnancy based on the  
19 patient's particular medical condition and history as determined by  
20 a physician.

21           (7) To protect a patient's privacy, the information set forth  
22 in subsection (3) and subsection (6) shall not be disclosed to the  
23 patient in the presence of another patient.

24           (8) If at any time before the performance of an abortion, a  
25 patient undergoes an ultrasound examination, or a physician  
26 determines that ultrasound imaging will be used during the course  
27 of a patient's abortion, the physician or qualified person

1 assisting the physician shall provide the patient with the  
2 opportunity to view or decline to view an active ultrasound image  
3 of the fetus, and offer to provide the patient with a physical  
4 picture of the ultrasound image of the fetus before the performance  
5 of the abortion. After the expiration of the 24-hour period  
6 prescribed under subsection (3) but before performing an abortion  
7 on a patient who is a pregnant woman, a physician or a qualified  
8 person assisting the physician shall do all of the following:

9 (a) Obtain the patient's signature on the acknowledgment and  
10 consent form described in subsection (11)(c) confirming that she  
11 has received the information required under subsection (3).

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

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

18 (9) This subsection does not prohibit notifying the patient  
19 that payment for medical services will be required or that  
20 collection of payment in full for all medical services provided or  
21 planned may be demanded after the 24-hour period described in this  
22 subsection has expired. A physician or an agent of the physician  
23 shall not collect payment, in whole or in part, for a medical  
24 service provided to or planned for a patient before the expiration  
25 of 24 hours from the time the patient has done either or both of  
26 the following, except in the case of a physician or an agent of a  
27 physician receiving capitated payments or under a salary

1 arrangement for providing those medical services:

2 (a) Inquired about obtaining an abortion after her pregnancy  
3 is confirmed and she has received from that physician or a  
4 qualified person assisting the physician the information required  
5 under subsection (3)(c) and (d).

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

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

16 (11) The department of ~~community health~~ **AND HUMAN SERVICES**  
17 shall do each of the following:

18 (a) Produce medically accurate depictions, illustrations, or  
19 photographs of the development of a human fetus that indicate by  
20 scale the actual size of the fetus at 2-week intervals from the  
21 fourth week through the twenty-eighth week of gestation. Each  
22 depiction, illustration, or photograph shall be accompanied by a  
23 printed description, in nontechnical English, Arabic, and Spanish,  
24 of the probable anatomical and physiological characteristics of the  
25 fetus at that particular state of gestational development.

26 (b) Subject to subdivision (e), develop, draft, and print, in  
27 nontechnical English, Arabic, and Spanish, written standardized

1 summaries, based upon the various medical procedures used to abort  
2 pregnancies, that do each of the following:

3 (i) Describe, individually and on separate documents, those  
4 medical procedures used to perform abortions in this state that are  
5 recognized by the department **OF HEALTH AND HUMAN SERVICES**.

6 (ii) Identify the physical complications that have been  
7 associated with each procedure described in subparagraph (i) and  
8 with live birth, as determined by the department **OF HEALTH AND**  
9 **HUMAN SERVICES**. In identifying these complications, the department  
10 shall consider the annual statistical report required under section  
11 2835, and shall consider studies concerning complications that have  
12 been published in a peer review medical journal, with particular  
13 attention paid to the design of the study, and shall consult with  
14 the federal ~~centers for disease control and prevention,~~ **CENTERS FOR**  
15 **DISEASE CONTROL AND PREVENTION**, the American ~~congress of~~  
16 ~~obstetricians and gynecologists,~~ **CONGRESS OF OBSTETRICIANS AND**  
17 **GYNECOLOGISTS**, the Michigan ~~state medical society,~~ **STATE MEDICAL**  
18 **SOCIETY**, or any other source that the department **OF HEALTH AND**  
19 **HUMAN SERVICES** determines appropriate for the purpose.

20 (iii) State that as the result of an abortion, some women may  
21 experience depression, feelings of guilt, sleep disturbance, loss  
22 of interest in work or sex, or anger, and that if these symptoms  
23 occur and are intense or persistent, professional help is  
24 recommended.

25 (iv) State that not all of the complications listed in  
26 subparagraph (ii) may pertain to that particular patient and refer  
27 the patient to her physician for more personalized information.

1 (v) Identify services available through public agencies to  
 2 assist the patient during her pregnancy and after the birth of her  
 3 child, should she choose to give birth and maintain custody of her  
 4 child.

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

9 (vii) Identify services available through public agencies to  
 10 assist the patient and provide counseling should she experience  
 11 subsequent adverse psychological effects from the abortion.

12 (c) Develop, draft, and print, in nontechnical English,  
 13 Arabic, and Spanish, an acknowledgment and consent form that  
 14 includes only the following language above a signature line for the  
 15 patient:

16 "I, \_\_\_\_\_, voluntarily and willfully  
 17 hereby authorize Dr. \_\_\_\_\_ ("the physician") and any  
 18 assistant designated by the physician to perform upon me the  
 19 following operation(s) or procedure(s):

20 \_\_\_\_\_  
 21 (Name of operation(s) or procedure(s))

22 \_\_\_\_\_  
 23 A. I understand that I am approximately \_\_\_\_\_ weeks pregnant.  
 24 I consent to an abortion procedure to terminate my pregnancy. I  
 25 understand that I have the right to withdraw my consent to the  
 26 abortion procedure at any time before performance of that  
 27 procedure.

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

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

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

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

10          3. A prenatal care and parenting information pamphlet.

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

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

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

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

20          F. I acknowledge that I have received all of the following  
21 information:

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

24          2. Information pertaining to available pregnancy related  
25 services.

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

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

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

17           (e) The department **OF HEALTH AND HUMAN SERVICES** shall not  
18 develop written standardized summaries for abortion procedures  
19 under subdivision (b) that utilize medication that has not been  
20 approved by the United States ~~food and drug administration~~ **FOOD AND**  
21 **DRUG ADMINISTRATION** for use in performing an abortion.

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

26           (g) Develop, operate, and maintain an internet website that  
27 allows a patient considering an abortion to review the information



1 required in subsection (3)(c) ~~through~~ **TO** (f). After the patient  
2 reviews the required information, the department **OF HEALTH AND**  
3 **HUMAN SERVICES** shall ~~assure~~ **ENSURE** that a confirmation form can be  
4 printed by the patient from the internet website that will verify  
5 the time and date the information was reviewed. A confirmation form  
6 printed under this subdivision becomes invalid 14 days after the  
7 date and time printed on the confirmation form.

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

14 (i) After considering the standards and recommendations of the  
15 ~~joint commission on accreditation of healthcare organizations,~~  
16 **JOINT COMMISSION ON ACCREDITATION OF HEALTHCARE ORGANIZATIONS**, the  
17 Michigan domestic and sexual violence prevention and treatment  
18 board, the Michigan ~~coalition to end domestic and sexual violence~~  
19 **COALITION TO END DOMESTIC AND SEXUAL VIOLENCE**, or successor  
20 organization, and the American ~~medical association,~~ **MEDICAL**  
21 **ASSOCIATION**, do all of the following:

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

1 (A) A statement that it is illegal under Michigan law to  
2 coerce a woman to have an abortion.

3 (B) A statement that help is available if a woman is being  
4 threatened or intimidated; is being physically, emotionally, or  
5 sexually harmed; or feels afraid for any reason.

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

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

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

24 (iv) Develop, draft, and print protocols and accompanying  
25 training materials to be utilized by a physician or a qualified  
26 person assisting the physician if a patient discloses coercion to  
27 abort or that domestic violence is occurring, or both, during the

1 coercion to abort screening. The protocols shall instruct the  
2 physician or qualified person assisting the physician to do, at a  
3 minimum, all of the following:

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

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

6 (C) Explore safety options with the patient.

7 (D) Provide referral information to the patient regarding law  
8 enforcement and domestic violence and sexual assault support  
9 organizations.

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

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

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

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

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

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

4 (17) If any portion of this act or the application of this act  
5 to any person or circumstances is found invalid by a court, that  
6 invalidity does not affect the remaining portions or applications  
7 of the act that can be given effect without the invalid portion or  
8 application, if those remaining portions are not determined by the  
9 court to be inoperable.

10 (18) Upon a patient's request, each local health department  
11 shall:

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

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

20 (19) The identity and address of a patient who is provided  
21 information or who consents to an abortion ~~pursuant~~**ACCORDING** to  
22 this section is confidential and is subject to disclosure only with  
23 the consent of the patient or by judicial process.

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

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

4 (b) Destroy the information containing the identity and  
5 address of the patient within 30 days after assisting the patient  
6 under this section.

7 Sec. 17020. (1) Except as otherwise provided for a test  
8 performed under section 5431 and except as otherwise provided by  
9 law, beginning ~~upon the expiration of 6 months after the effective~~  
10 ~~date of the amendatory act that added this section, SEPTEMBER 16,~~  
11 **2000**, a physician or an individual to whom the physician has  
12 delegated authority to perform a selected act, task, or function  
13 under section 16215 shall not order a presymptomatic or predictive  
14 genetic test without first obtaining the written, informed consent  
15 of the test subject, ~~pursuant~~ **ACCORDING** to this section.

16 (2) For purposes of subsection (1), written, informed consent  
17 consists of a signed writing executed by the test subject or the  
18 legally authorized representative of the test subject that confirms  
19 that the physician or the individual acting under the delegatory  
20 authority of the physician has explained, and the test subject or  
21 the legally authorized representative of the test subject  
22 understands, at a minimum, all of the following:

23 (a) The nature and purpose of the presymptomatic or predictive  
24 genetic test.

25 (b) The effectiveness and limitations of the presymptomatic or  
26 predictive genetic test.

27 (c) The implications of taking the presymptomatic or

1 predictive genetic test, including, but not limited to, the medical  
2 risks and benefits.

3 (d) The future uses of the sample taken from the test subject  
4 in order to conduct the presymptomatic or predictive genetic test  
5 and the information obtained from the presymptomatic or predictive  
6 genetic test.

7 (e) The meaning of the presymptomatic or predictive genetic  
8 test results and the procedure for providing notice of the results  
9 to the test subject.

10 (f) Who will have access to the sample taken from the test  
11 subject in order to conduct the presymptomatic or predictive  
12 genetic test and the information obtained from the presymptomatic  
13 or predictive genetic test, and the test subject's right to  
14 confidential treatment of the sample and the information.

15 (3) ~~Within 6 months after the effective date of the amendatory~~  
16 ~~act that added this section,~~ **NOT LATER THAN SEPTEMBER 15, 2000**, the  
17 department of ~~community~~ health **AND HUMAN SERVICES**, in consultation  
18 with the Michigan board of medicine, the Michigan board of  
19 osteopathic medicine and surgery, at least 1 physician who is board  
20 certified by the American ~~board of medical genetics,~~ **BOARD OF**  
21 **MEDICAL GENETICS**, and appropriate professional organizations, shall  
22 develop and distribute a model informed consent form for purposes  
23 of this section that practitioners may adopt. The department of  
24 ~~community~~ health **AND HUMAN SERVICES** shall include in the model form  
25 at least all of the information required under subsection (2). The  
26 department of ~~community~~ health **AND HUMAN SERVICES** shall distribute  
27 the model form to physicians and other individuals subject to this

1 section upon request and at no charge. The department of ~~community~~  
2 health **AND HUMAN SERVICES** shall review the model form at least  
3 annually for 5 years after the first model form is distributed, and  
4 shall revise the model form if necessary to make the form reflect  
5 the latest developments in medical genetics.

6 (4) The department of ~~community~~-health **AND HUMAN SERVICES**, in  
7 consultation with the entities described in subsection (3), may  
8 also develop and distribute a pamphlet that provides further  
9 explanation of the information included in the model informed  
10 consent form.

11 (5) If a test subject or his or her legally authorized  
12 representative signs a copy of the model informed consent form  
13 developed and distributed under subsection (3), the physician or  
14 individual acting under the delegatory authority of the physician  
15 shall give the test subject a copy of the signed informed consent  
16 form and shall include the original signed informed consent form in  
17 the test subject's medical record.

18 (6) If a test subject or his or her legally authorized  
19 representative signs a copy of the model informed consent form  
20 developed and distributed under subsection (3), the test subject is  
21 barred from subsequently bringing a civil action for damages  
22 against the physician, or an individual to whom the physician  
23 delegated the authority to perform a selected act, task, or  
24 function under section 16215, who ordered the presymptomatic or  
25 predictive genetic test, based on failure to obtain informed  
26 consent for the presymptomatic or predictive genetic test.

27 (7) A physician's duty to inform a patient under this section

1 does not require disclosure of information beyond what a reasonably  
2 well-qualified physician licensed under this article would know.

3 (8) Except as otherwise provided in subsection (9), as used in  
4 this section:

5 (a) "Genetic information" means information about a gene, gene  
6 product, or inherited characteristic which information is derived  
7 from a genetic test.

8 (b) "Genetic test" means the analysis of human DNA, RNA,  
9 chromosomes, and those proteins and metabolites used to detect  
10 heritable or somatic disease-related genotypes or karyotypes for  
11 clinical purposes. A genetic test must be generally accepted in the  
12 scientific and medical communities as being specifically  
13 determinative for the presence, absence, or mutation of a gene or  
14 chromosome in order to qualify under this definition. Genetic test  
15 does not include a routine physical examination or a routine  
16 analysis, including, but not limited to, a chemical analysis, of  
17 body fluids, unless conducted specifically to determine the  
18 presence, absence, or mutation of a gene or chromosome.

19 (c) "Predictive genetic test" means a genetic test performed  
20 for the purpose of predicting the future probability that the test  
21 subject will develop a genetically related disease or disability.

22 (d) "Presymptomatic genetic test" means a genetic test  
23 performed before the onset of clinical symptoms or indications of  
24 disease.

25 (9) For purposes of subsection (8)(b), the term "genetic test"  
26 does not include a procedure performed as a component of biomedical  
27 research that is conducted ~~pursuant~~ **ACCORDING** to federal common



1 rule under 21 ~~C.F.R.~~ **CFR** parts 50 and 56 and 45 ~~C.F.R.~~ **CFR** part 46.

2 Sec. 17520. (1) Except as otherwise provided for a test  
3 performed under section 5431 and except as otherwise provided by  
4 law, beginning ~~upon the expiration of 6 months after the effective~~  
5 ~~date of the amendatory act that added this section,~~ **SEPTEMBER 16,**  
6 **2000,** a physician or an individual to whom the physician has  
7 delegated authority to perform a selected act, task, or function  
8 under section 16215 shall not order a presymptomatic or predictive  
9 genetic test without first obtaining the written, informed consent  
10 of the test subject, ~~pursuant~~ **ACCORDING** to this section.

11 (2) For purposes of subsection (1), written, informed consent  
12 consists of a signed writing executed by the test subject or the  
13 legally authorized representative of the test subject that confirms  
14 that the physician or the individual acting under the delegatory  
15 authority of the physician has explained, and the test subject or  
16 the legally authorized representative of the test subject  
17 understands, at a minimum, all of the following:

18 (a) The nature and purpose of the presymptomatic or predictive  
19 genetic test.

20 (b) The effectiveness and limitations of the presymptomatic or  
21 predictive genetic test.

22 (c) The implications of taking the presymptomatic or  
23 predictive genetic test, including, but not limited to, the medical  
24 risks and benefits.

25 (d) The future uses of the sample taken from the test subject  
26 in order to conduct the presymptomatic or predictive genetic test  
27 and the information obtained from the presymptomatic or predictive

1 genetic test.

2 (e) The meaning of the presymptomatic or predictive genetic  
3 test results and the procedure for providing notice of the results  
4 to the test subject.

5 (f) Who will have access to the sample taken from the test  
6 subject in order to conduct the presymptomatic or predictive  
7 genetic test and the information obtained from the presymptomatic  
8 or predictive genetic test, and the test subject's right to  
9 confidential treatment of the sample and the information.

10 (3) ~~Within 6 months after the effective date of the amendatory~~  
11 ~~act that added this section,~~ **NOT LATER THAN SEPTEMBER 15, 2000**, the  
12 department of ~~community health~~ **AND HUMAN SERVICES**, in consultation  
13 with the Michigan board of medicine, the Michigan board of  
14 osteopathic medicine and surgery, at least 1 physician who is board  
15 certified by the American ~~board of medical genetics,~~ **BOARD OF**  
16 **MEDICAL GENETICS**, and appropriate professional organizations, shall  
17 develop and distribute a model informed consent form for purposes  
18 of this section that practitioners may adopt. The department of  
19 ~~community health~~ **AND HUMAN SERVICES** shall include in the model form  
20 at least all of the information required under subsection (2). The  
21 department of ~~community health~~ **AND HUMAN SERVICES** shall distribute  
22 the model form to physicians and other individuals subject to this  
23 section upon request and at no charge. The department of ~~community~~  
24 health **AND HUMAN SERVICES** shall review the model form at least  
25 annually for 5 years after the first model form is distributed, and  
26 shall revise the model form if necessary to make the form reflect  
27 the latest developments in medical genetics.

1           (4) The department of ~~community~~ health **AND HUMAN SERVICES**, in  
2 consultation with the entities described in subsection (3), may  
3 also develop and distribute a pamphlet that provides further  
4 explanation of the information included in the model informed  
5 consent form.

6           (5) If a test subject or his or her legally authorized  
7 representative signs a copy of the model informed consent form  
8 developed and distributed under subsection (3), the physician or  
9 individual acting under the delegatory authority of the physician  
10 shall give the test subject a copy of the signed informed consent  
11 form and shall include the original signed informed consent form in  
12 the test subject's medical record.

13           (6) If a test subject or his or her legally authorized  
14 representative signs a copy of the model informed consent form  
15 developed and distributed under subsection (3), the test subject is  
16 barred from subsequently bringing a civil action for damages  
17 against the physician, or an individual to whom the physician  
18 delegated the authority to perform a selected act, task, or  
19 function under section 16215, who ordered the presymptomatic or  
20 predictive genetic test, based on failure to obtain informed  
21 consent for the presymptomatic or predictive genetic test.

22           (7) A physician's duty to inform a patient under this section  
23 does not require disclosure of information beyond what a reasonably  
24 well-qualified physician licensed under this article would know.

25           (8) Except as otherwise provided in subsection (9), as used in  
26 this section:

27           (a) "Genetic information" means information about a gene, gene

1 product, or inherited characteristic which information is derived  
2 from a genetic test.

3 (b) "Genetic test" means the analysis of human DNA, RNA,  
4 chromosomes, and those proteins and metabolites used to detect  
5 heritable or somatic disease-related genotypes or karyotypes for  
6 clinical purposes. A genetic test must be generally accepted in the  
7 scientific and medical communities as being specifically  
8 determinative for the presence, absence, or mutation of a gene or  
9 chromosome in order to qualify under this definition. Genetic test  
10 does not include a routine physical examination or a routine  
11 analysis, including, but not limited to, a chemical analysis, of  
12 body fluids, unless conducted specifically to determine the  
13 presence, absence, or mutation of a gene or chromosome.

14 (c) "Predictive genetic test" means a genetic test performed  
15 for the purpose of predicting the future probability that the test  
16 subject will develop a genetically related disease or disability.

17 (d) "Presymptomatic genetic test" means a genetic test  
18 performed before the onset of clinical symptoms or indications of  
19 disease.

20 (9) For purposes of subsection (8)(b), the term "genetic test"  
21 does not include a procedure performed as a component of biomedical  
22 research that is conducted pursuant ~~to~~ **ACCORDING** to federal common  
23 rule under 21 ~~C.F.R.—CFR~~ parts 50 and 56 and 45 ~~C.F.R.—CFR~~ part 46.

24 Sec. 17745a. (1) As used in this section:

25 (a) "Medicaid" means the program of medical assistance  
26 established under title XIX of the social security act, ~~chapter~~  
27 ~~531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g 1 to 1396r 6, and~~

1 ~~1396r-8 to 1396v.~~ **42 USC 1396 TO 1396W-5.**

2 (b) "Medicare" means the federal ~~medicare~~ **MEDICARE** program  
 3 established under title XVIII of the social security act, ~~chapter~~  
 4 ~~531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2, 1395b-6 to~~  
 5 ~~1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to 1395t, 1395u~~  
 6 ~~to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28, 1395x to~~  
 7 ~~1395yy, and 1395bbb to 1395ggg.~~ **42 USC 1395 TO 1395III.**

8 (c) "Public health program" means 1 of the following:

9 (i) A local health department.

10 (ii) A migrant health center or a community health center as  
 11 ~~defined~~ **DESCRIBED** under sections 329 and 330 ~~of subpart I of part C~~  
 12 ~~of title III of the public health service act, 42 U.S.C. USC 254b~~  
 13 and 254c.

14 (iii) A family planning program designated **AND VERIFIED** by the  
 15 ~~family independence agency~~ **DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
 16 as a provider type 23 under the social welfare act, 1939 PA 280,  
 17 MCL 400.1 to 400.119b. ~~, and verified by the department of~~  
 18 ~~community health.~~

19 (iv) A methadone treatment program licensed under article 6.

20 (v) A rural health clinic.

21 (vi) A hospice rendering emergency care services in a  
 22 patient's home as described in section 17746.

23 (d) "Rural health clinic" means a rural health clinic as  
 24 defined in section 1861 ~~of part C of title XVIII of the social~~  
 25 ~~security act, 42 U.S.C. USC 1395x, that is certified to participate~~  
 26 ~~in medicaid~~ **MEDICAID** and ~~medicare~~ **MEDICARE.**

27 (2) Except as otherwise provided in subsections (3) and (4),

1 in a public health program without an on-site pharmacy, a  
2 dispensing prescriber may delegate the dispensing of prescription  
3 drugs only to the following individuals:

4 (a) A registered professional nurse licensed under part 172.

5 (b) A physician's assistant licensed under part 170 or part  
6 175, if the delegating dispensing prescriber is responsible for the  
7 clinical supervision of the physician's assistant.

8 (3) In a public health program without an on-site pharmacy, a  
9 dispensing prescriber may delegate the delivery of prescription  
10 drugs consisting only of prelabeled, prepackaged oral  
11 contraceptives under the following circumstances:

12 (a) The delivery is delegated to an appropriately trained  
13 individual.

14 (b) The delivery is performed ~~pursuant~~ **ACCORDING** to specific,  
15 written protocols.

16 (4) In a methadone treatment program licensed under article 6  
17 without an on-site pharmacy, a dispensing prescriber may delegate  
18 the delivery of a prescription drug consisting only of 1 or more  
19 single doses of methadone, up to the maximum number of single doses  
20 allowed by law, to a registered client of the methadone treatment  
21 program, if all of the following requirements are met:

22 (a) The delivery is delegated to 1 of the following  
23 individuals:

24 (i) A registered professional nurse or a licensed practical  
25 nurse licensed under part 172.

26 (ii) A physician's assistant licensed under part 170 or part  
27 175, but only if the delegating dispensing prescriber is

1 responsible for the clinical supervision of the physician's  
2 assistant.

3 (b) The delivery is performed ~~pursuant~~ **ACCORDING** to specific,  
4 written protocols.

5 (c) The prescription drug described in this subsection is  
6 labeled in accordance with section 17745.

7 Sec. 17748c. Except for pharmaceuticals on the Michigan  
8 pharmaceutical product list maintained by the department of  
9 ~~community health~~ **AND HUMAN SERVICES**, a pharmacist shall not  
10 compound a pharmaceutical that is commercially available unless 1  
11 of the following requirements is met:

12 (a) The commercially available pharmaceutical is modified to  
13 produce a significant difference, in the professional judgment of  
14 the prescriber, between the compounded pharmaceutical for the  
15 patient and the comparable commercially available pharmaceutical.

16 (b) The commercially available pharmaceutical is not available  
17 from normal distribution channels in a timely manner to meet the  
18 patient's needs and the dispensing of the compounded pharmaceutical  
19 has been approved by the prescriber and the patient. A pharmacist  
20 who compounds a commercially available pharmaceutical as provided  
21 in this subdivision shall maintain documentation of the reason for  
22 the compounding.

23 Sec. 17775. (1) This section and section 17776 shall be known  
24 and may be referred to as the "program for utilization of unused  
25 prescription drugs".

26 (2) As used in this section and section 17776:

27 (a) "Board" means the Michigan board of pharmacy created under

1 section 17721.

2 (b) "Cancer drug" means that term as defined in section 17780.

3 (c) "Charitable clinic" means a charitable nonprofit  
4 corporation or facility that meets all of the following  
5 requirements:

6 (i) Is organized as a not-for-profit corporation ~~pursuant to~~  
7 **UNDER** the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to  
8 450.3192.

9 (ii) Holds a valid exemption from federal income taxation  
10 issued under section 501(a) of the internal revenue code of 1986,  
11 26 USC 501.

12 (iii) Is listed as an exempt organization under section 501(c)  
13 of the internal revenue code of 1986, 26 USC 501.

14 (iv) Is organized under or operated as a part of a health  
15 facility or agency licensed under article 17.

16 (v) Provides on an outpatient basis for a period of less than  
17 24 consecutive hours to persons not residing or confined at the  
18 facility advice, counseling, diagnosis, treatment, surgery, care,  
19 or services relating to the preservation or maintenance of health.

20 (vi) Has a licensed pharmacy.

21 (d) "Eligible facility" means a medical institution as that  
22 term is defined in R 338.486 of the Michigan ~~administrative~~  
23 ~~code~~ **ADMINISTRATIVE CODE**.

24 (e) "Eligible participant" means an individual who meets all  
25 of the following requirements:

26 (i) Is a resident of this state.

27 (ii) Is eligible to receive ~~medicaid~~ **MEDICAID** or ~~medicare~~



1 **MEDICARE** or has no health insurance and otherwise lacks reasonable  
2 means to purchase prescription drugs, as prescribed in rules  
3 promulgated under this section.

4 (f) "Health professional" means any of the following  
5 individuals licensed and authorized to prescribe and dispense drugs  
6 or to provide medical, dental, or other health-related diagnoses,  
7 care, or treatment within the scope of his or her professional  
8 license:

9 (i) A physician licensed to practice medicine or osteopathic  
10 medicine and surgery under part 170 or 175.

11 (ii) A physician's assistant licensed under part 170, 175, or  
12 180.

13 (iii) A dentist licensed under part 166.

14 (iv) An optometrist licensed under part 174.

15 (v) A pharmacist licensed under this part.

16 (vi) A podiatrist licensed under part 180.

17 (g) "Program" means the statewide unused prescription drug  
18 repository and distribution program known as the program for  
19 utilization of unused prescription drugs that is established under  
20 this section.

21 (3) The board shall establish, implement, and administer a  
22 statewide unused prescription drug repository and distribution  
23 program consistent with public health and safety through which  
24 unused or donated prescription drugs, other than controlled  
25 substances, may be transferred from an eligible facility or  
26 manufacturer to a pharmacy or a charitable clinic that elects to  
27 participate in the program. The program is created to dispense

1 unused or donated prescription drugs, other than controlled  
2 substances, to eligible participants and to provide for the  
3 destruction and disposal of prescription drugs or other medications  
4 that are ineligible for dispensing under the program.

5 (4) Participation in the program by an eligible facility,  
6 manufacturer, pharmacy, or charitable clinic is voluntary. Nothing  
7 in this section or section 17776 requires any eligible facility,  
8 manufacturer, pharmacy, or charitable clinic to participate in the  
9 program.

10 (5) Pharmacies, health professionals, and charitable clinics  
11 that participate in the program shall use the following criteria in  
12 accepting unused or donated prescription drugs from eligible  
13 facilities or manufacturers for use in the program:

14 (a) Only prescription drugs in their original sealed, tamper-  
15 evident, and unopened unit dose packaging may be accepted for  
16 dispensing. ~~However, prescription~~ **PRESCRIPTION** drugs packaged in  
17 single-unit dose packaging may be accepted for dispensing even if  
18 the outside packaging is open as long as the single-unit dose  
19 packaging is unopened.

20 (b) The following shall not be accepted for dispensing:

21 (i) Expired prescription drugs.

22 (ii) Controlled substances as defined in article 7 or article  
23 8 or by federal law.

24 (iii) Drugs that have been held outside of a health  
25 professional's control where sanitation and security cannot be  
26 assured.

27 (iv) Drugs that can only be dispensed to a patient registered

1 with the drug's manufacturer under federal ~~food and drug~~  
2 ~~administration~~ **FOOD AND DRUG ADMINISTRATION** requirements.

3 (c) A prescription drug shall not be accepted for dispensing  
4 if the person accepting the drug has reason to believe that the  
5 drug is adulterated.

6 (d) Subject to the limitations prescribed in this subsection,  
7 unused or donated prescription drugs dispensed for purposes of a  
8 medical assistance program or drug product donation program may be  
9 accepted for dispensing under the program.

10 (e) Any additional criteria established in rules promulgated  
11 under this section.

12 (6) A pharmacy or charitable clinic that meets the eligibility  
13 requirements for participation in the program and any rules  
14 promulgated under this section may do any of the following:

15 (a) Dispense prescription drugs accepted under the program to  
16 eligible participants.

17 (b) If established by rule under this section, charge eligible  
18 participants who receive prescription drugs under the program a  
19 handling fee for the service.

20 (7) A pharmacy or charitable clinic that participates in the  
21 program and accepts prescription drugs for the program shall do all  
22 of the following:

23 (a) Comply with all applicable federal laws and regulations  
24 and state laws and rules related to the storage and distribution of  
25 harmful drugs.

26 (b) Inspect all accepted prescription drugs before dispensing  
27 the prescription drugs to determine that the drugs are not

1 adulterated.

2 (c) Dispense prescription drugs only ~~pursuant~~ **ACCORDING** to a  
3 prescription issued by a health professional.

4 (8) A pharmacy, health professional, or charitable clinic that  
5 accepts prescription drugs under the program shall not resell the  
6 prescription drugs. Receipt of a fee from an eligible participant,  
7 if established in rules promulgated under this section, or  
8 reimbursement from a governmental agency to a charitable clinic  
9 does not constitute resale of prescription drugs under this  
10 subsection.

11 (9) For purposes of the lawful donation, acceptance, or  
12 dispensing of prescription drugs under the program, the following  
13 persons that are in compliance with the program, this section and  
14 section 17776, and any rules promulgated under this section and in  
15 the absence of bad faith or gross negligence are not subject to  
16 criminal or civil liability for injury other than death, or loss to  
17 person or property, or professional disciplinary action:

18 (a) The board.

19 (b) The department.

20 (c) An eligible facility or manufacturer that donates  
21 prescription drugs to the program.

22 (d) A manufacturer or its representative that directly donates  
23 prescription drugs in professional samples to a charitable clinic  
24 under the program.

25 (e) A pharmacy, charitable clinic, or health professional that  
26 accepts or dispenses prescription drugs for the program.

27 (f) A pharmacy or charitable clinic that employs a health

1 professional who accepts prescription drugs for the program and who  
2 may legally dispense prescription drugs under this part.

3 (10) A manufacturer is not, in the absence of bad faith,  
4 subject to criminal prosecution or liability in tort or other civil  
5 action for injury, death, or loss to person or property for matters  
6 related to the donation, acceptance, or dispensing of a  
7 prescription drug manufactured by the manufacturer that is donated  
8 by any person under the program, including, but not limited to,  
9 liability for failure to transfer or communicate product or  
10 consumer information or the expiration date of the donated  
11 prescription drug.

12 (11) Subject to subsection (12), the department, in  
13 consultation with the board, shall promulgate rules under the  
14 administrative procedures act of 1969 and establish procedures  
15 necessary to establish, implement, and administer the program. The  
16 board shall provide technical assistance to eligible facilities,  
17 manufacturers, pharmacies, and charitable clinics that participate  
18 in the program.

19 (12) The department, in consultation with the board, shall  
20 promulgate emergency rules under the administrative procedures act  
21 of 1969 on or before September 28, 2013 to establish, implement,  
22 and administer the program. The department, in consultation with  
23 the board, shall promulgate permanent rules under the  
24 administrative procedures act of 1969 as soon as practical after  
25 emergency rules have been promulgated under this subsection. The  
26 department and the board shall include all of the following in  
27 rules promulgated under this section:

1 (a) Eligibility criteria for pharmacies and charitable clinics  
2 authorized to accept and dispense prescription drugs for the  
3 program.

4 (b) Eligibility criteria for eligible participants.

5 (c) A list of prescription drugs that are not eligible for  
6 acceptance and dispensing under the program.

7 (d) Standards and procedures for transfer, transportation,  
8 acceptance, safe storage, security, and dispensing of prescription  
9 drugs.

10 (e) A process for seeking input from the department of **HEALTH**  
11 **AND** human services ~~and the department of community health~~ in  
12 establishing provisions that affect eligible facilities.

13 (f) A process for seeking input from the department of **HEALTH**  
14 **AND** human services ~~and the department of community health~~ in  
15 establishing provisions that affect mental health and substance  
16 abuse clients.

17 (g) Standards and procedures for inspecting accepted  
18 prescription drugs to ensure that the prescription drugs meet the  
19 requirements of the program and to ensure that, in the professional  
20 judgment of the pharmacist, the prescription drugs meet all federal  
21 and state standards for product integrity.

22 (h) Procedures for the destruction and environmentally sound  
23 disposal of prescription drugs or other medications that are  
24 accepted and that are ineligible for dispensing under the program.

25 (i) Procedures for verifying whether the charitable clinic,  
26 pharmacy, pharmacist, or other health professionals participating  
27 in the program are licensed and in good standing with the

1 applicable licensing board.

2 (j) Standards for acceptance of unused or donated prescription  
3 drugs from eligible facilities.

4 (k) Standards for the acceptance by a pharmacy, health  
5 professional, or charitable clinic that participates in the program  
6 from any person of a prescription drug or any other medication that  
7 is ineligible for dispensing under the program for destruction and  
8 disposal.

9 (l) Any other standards and procedures the department, in  
10 consultation with the board, considers appropriate or necessary to  
11 establish, implement, and administer the program.

12 (13) ~~Pursuant~~**ACCORDING** to the rules promulgated and standards  
13 and procedures established for the program under this section, a  
14 resident of an eligible facility or the representative or guardian  
15 of a resident of an eligible facility may donate unused  
16 prescription drugs for dispensing to eligible participants under  
17 the program.

18 (14) ~~Pursuant~~**ACCORDING** to rules promulgated and standards and  
19 procedures established for the program under this section, a person  
20 may deliver to a pharmacy, health professional, or charitable  
21 clinic that participates in the program a prescription drug or any  
22 other medication that is ineligible for dispensing under the  
23 program for destruction and disposal.

24 (15) This section and section 17776 do not impair or supersede  
25 the provisions regarding the cancer drug repository program  
26 established in section 17780. If any provision of this section or  
27 section 17776 conflicts with a provision of section 17780 with

1 regard to a cancer drug, section 17780 controls.

2       Sec. 20106. (1) "Health facility or agency", except as  
3 provided in section 20115, means:

4       (a) An ambulance operation, aircraft transport operation,  
5 nontransport prehospital life support operation, or medical first  
6 response service.

7       (b) A county medical care facility.

8       (c) A freestanding surgical outpatient facility.

9       (d) A health maintenance organization.

10       (e) A home for the aged.

11       (f) A hospital.

12       (g) A nursing home.

13       (h) A hospice.

14       (i) A hospice residence.

15       (j) A facility or agency listed in subdivisions (a) to (g)  
16 located in a university, college, or other educational institution.

17       (2) "Health maintenance organization" means that term as  
18 defined in section 3501 of the insurance code of 1956, 1956 PA 218,  
19 MCL 500.3501.

20       (3) "Home for the aged" means a supervised personal care  
21 facility, other than a hotel, adult foster care facility, hospital,  
22 nursing home, or county medical care facility that provides room,  
23 board, and supervised personal care to 21 or more unrelated,  
24 nontransient, individuals 60 years of age or older. Home for the  
25 aged includes a supervised personal care facility for 20 or fewer  
26 individuals 60 years of age or older if the facility is operated in  
27 conjunction with and as a distinct part of a licensed nursing home.



1 Home for the aged does not include an area excluded from this  
2 definition by section 17(3) of the continuing care community  
3 disclosure act, 2014 PA 448, MCL 554.917.

4 (4) "Hospice" means a health care program that provides a  
5 coordinated set of services rendered at home or in outpatient or  
6 institutional settings for individuals suffering from a disease or  
7 condition with a terminal prognosis.

8 (5) "Hospital" means a facility offering inpatient, overnight  
9 care, and services for observation, diagnosis, and active treatment  
10 of an individual with a medical, surgical, obstetric, chronic, or  
11 rehabilitative condition requiring the daily direction or  
12 supervision of a physician. Hospital does not include a mental  
13 health hospital licensed or operated by the department of ~~community~~  
14 health **AND HUMAN SERVICES** or a hospital operated by the department  
15 of corrections.

16 (6) "Hospital long-term care unit" means a nursing care  
17 facility, owned and operated by and as part of a hospital,  
18 providing organized nursing care and medical treatment to 7 or more  
19 unrelated individuals suffering or recovering from illness, injury,  
20 or infirmity.

21 Sec. 20115. (1) The department may promulgate rules to further  
22 define the term "health facility or agency" and the definition of a  
23 health facility or agency listed in section 20106 as required to  
24 implement this article. The department may define a specific  
25 organization as a health facility or agency for the sole purpose of  
26 certification authorized under this article. For purpose of  
27 certification only, an organization defined in section 20106(5),

1 20108(1), or 20109(4) is considered a health facility or agency.  
2 The term "health facility or agency" does not mean a visiting nurse  
3 service or home aide service conducted by and for the adherents of  
4 a church or religious denomination for the purpose of providing  
5 service for those who depend upon spiritual means through prayer  
6 alone for healing.

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

16 (3) The department shall promulgate rules that in effect  
17 republish R 325.3826, R 325.3832, R 325.3835, R 325.3857, R  
18 325.3866, R 325.3867, and R 325.3868 of the Michigan ~~administrative~~  
19 ~~code~~, **ADMINISTRATIVE CODE**, but shall include in the rules standards  
20 for a freestanding surgical outpatient facility or private practice  
21 office that performs 120 or more surgical abortions per year and  
22 that publicly advertises outpatient abortion services. The  
23 department shall ~~assure~~ **ENSURE** that the standards are consistent  
24 with the most recent United States ~~supreme court~~ **SUPREME COURT**  
25 decisions regarding state regulation of abortions.

26 (4) Subject to section 20145 and part 222, the department may  
27 modify or waive 1 or more of the rules contained in R 325.3801 to R

1 325.3877 of the Michigan ~~administrative code~~ **ADMINISTRATIVE CODE**  
2 regarding construction or equipment standards, or both, for a  
3 freestanding surgical outpatient facility that performs 120 or more  
4 surgical abortions per year and that publicly advertises outpatient  
5 abortion services, if both of the following conditions are met:

6 (a) The freestanding surgical outpatient facility was in  
7 existence and operating on December 31, 2012.

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

17 (5) By January 15 each year, the department of ~~community~~  
18 health **AND HUMAN SERVICES** shall provide the following information  
19 to the department: ~~of licensing and regulatory affairs.~~

20 (a) From data received by the department of ~~community~~ health  
21 **AND HUMAN SERVICES** through the abortion reporting requirements of  
22 section 2835, all of the following:

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

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

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

1 facility location during the immediately preceding calendar year.

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

5 (6) As used in this section:

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

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

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

12 Sec. 20156. (1) A representative of the department or the  
13 bureau of fire services created in section 1b of the fire  
14 prevention code, 1941 PA 207, MCL 29.1b, upon presentation of  
15 proper identification, may enter the premises of an applicant or  
16 licensee at any reasonable time to determine whether the applicant  
17 or licensee meets the requirements of this article and the rules  
18 promulgated under this article. The director; the director of the  
19 department of **HEALTH AND** human services; the bureau of fire  
20 services; the director of the office of services to the aging; or  
21 the director of a local health department; or an authorized  
22 representative of the director, the director of the department of  
23 **HEALTH AND** human services, the bureau of fire services, the  
24 director of the office of services to the aging, or the director of  
25 a local health department may enter on the premises of an applicant  
26 or licensee under part 217 at any time in the course of carrying  
27 out program responsibilities.

1           (2) The bureau of fire services created in section 1b of the  
2 fire prevention code, 1941 PA 207, MCL 29.1b, shall enforce rules  
3 promulgated by the bureau of fire services for health facilities  
4 and agencies to ~~assure~~**ENSURE** that physical facilities owned,  
5 maintained, or operated by a health facility or agency are planned,  
6 constructed, and maintained in a manner to protect the health,  
7 safety, and welfare of patients.

8           (3) The department shall not issue a license or certificate to  
9 a health facility or agency until it receives an appropriate  
10 certificate of approval from the bureau of fire services. For  
11 purposes of this section, a decision of the bureau of fire services  
12 to issue a certificate controls over that of a local fire  
13 department.

14           (4) Subsections (2) and (3) do not apply to a health facility  
15 or an agency licensed under part 205 or 209.

16           Sec. 21313. (1) The owner, operator, and governing body of a  
17 home for the aged are responsible for all phases of the operation  
18 of the home and shall assure that the home maintains an organized  
19 program to provide room and board, protection, supervision,  
20 assistance, and supervised personal care for its residents.

21           (2) The owner, operator, and governing body shall assure the  
22 availability of emergency medical care required by a resident.

23           (3) The owner, operator, or member of the governing body of a  
24 home for the aged and the authorized representative shall be of  
25 good moral character.

26           (4) The department of **HEALTH AND** human services shall not  
27 issue a license to or renew the license of an owner, operator, or

1 member of the governing body, who has regular direct access to  
2 residents or who has on-site facility operational responsibilities,  
3 or an applicant, if an individual or the authorized representative,  
4 if any of those individuals have been convicted of 1 or more of the  
5 following:

6 (a) A felony under this act or under chapter XXA of the  
7 Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

8 (b) A misdemeanor under this act or under chapter XXA of the  
9 Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r, within  
10 the 10 years immediately preceding the application.

11 (c) A misdemeanor involving abuse, neglect, assault, battery,  
12 or criminal sexual conduct or involving fraud or theft against a  
13 vulnerable adult as that term is defined in section 145m of the  
14 Michigan penal code, 1931 PA 328, MCL 750.145m, or a state or  
15 federal crime that is substantially similar to a misdemeanor  
16 described in this subdivision within the 10 years immediately  
17 preceding the application.

18 (5) The applicant for a license for a home for the aged, if an  
19 individual, shall give written consent at the time of license  
20 application and the authorized representative shall give written  
21 consent at the time of appointment, for the department of state  
22 police to conduct both of the following:

23 (a) A criminal history check.

24 (b) A criminal records check through the ~~federal bureau of~~  
25 ~~investigation.~~ **FEDERAL BUREAU OF INVESTIGATION.**

26 (6) Unless already submitted under subsection (5), an owner,  
27 operator, or member of the governing body who has regular direct

1 access to residents or who has on-site facility operational  
2 responsibilities for a home for the aged shall give written consent  
3 at the time of license application for the department of state  
4 police to conduct both of the following:

5 (a) A criminal history check.

6 (b) A criminal records check through the ~~federal bureau of~~  
7 ~~investigation.~~ **FEDERAL BUREAU OF INVESTIGATION.**

8 (7) The department of **HEALTH AND** human services shall require  
9 the applicant, authorized representative, owner, operator, or  
10 member of the governing body who has regular direct access to  
11 residents or who has on-site facility operational responsibilities  
12 to submit his or her fingerprints to the department of state police  
13 for the criminal history check and criminal records check described  
14 in subsections (5) and (6).

15 (8) ~~Not later than 1 year after the effective date of the 2012~~  
16 ~~amendatory act that amended this subsection, all~~ **ALL** owners,  
17 operators, and members of the governing body of homes for the aged  
18 who have regular direct access to residents or who have on-site  
19 facility operational responsibilities and all authorized  
20 representatives shall comply with the requirements of this section.

21 (9) The department of **HEALTH AND** human services shall request  
22 a criminal history check and criminal records check in the manner  
23 prescribed by the department of state police. The department of  
24 state police shall conduct the criminal history check and provide a  
25 report of the results to the licensing or regulatory bureau of the  
26 department of **HEALTH AND** human services. The report shall contain  
27 any criminal history information on the person maintained by the

1 department of state police and the results of the criminal records  
2 check from the ~~federal bureau of investigation.~~ **FEDERAL BUREAU OF**  
3 **INVESTIGATION.** The department of state police may charge the person  
4 on whom the criminal history check and criminal records check are  
5 performed under this section a fee for the checks required under  
6 this section that does not exceed the actual cost and reasonable  
7 cost of conducting the checks.

8 (10) ~~Beginning the effective date of the 2012 amendatory act~~  
9 ~~that added this subsection, if~~ **IF** an applicant, authorized  
10 representative, owner, operator, or member of the governing body  
11 who has regular direct access to residents or who has on-site  
12 facility operational responsibilities applies for a license or to  
13 renew a license to operate a home for the aged and previously  
14 underwent a criminal history check and criminal records check  
15 required under subsection (5) or (6) or under section 134a of the  
16 mental health code, 1974 PA 258, MCL 330.1134a, and has remained  
17 continuously licensed or continuously employed under section 20173a  
18 or under section 34b of the adult foster care facility licensing  
19 act, 1979 PA 218, MCL 400.734b, after the criminal history check  
20 and criminal records check have been performed, the applicant,  
21 authorized representative, owner, operator, or member of the  
22 governing body who has regular direct access to residents or who  
23 has on-site facility operational responsibilities is not required  
24 to submit to another criminal history check or criminal records  
25 check upon renewal of the license obtained under this section.

26 (11) The department of state police shall store and maintain  
27 all fingerprints submitted under this act in an automated



1 fingerprint identification system database that provides for an  
2 automatic notification at the time a subsequent criminal arrest  
3 fingerprint card submitted into the system matches a set of  
4 fingerprints previously submitted in accordance with this act. At  
5 the time of that notification, the department of state police shall  
6 immediately notify the department of **HEALTH AND** human services. The  
7 department of **HEALTH AND** human services shall take the appropriate  
8 action upon notification by the department of state police under  
9 this subsection.

10 (12) An applicant, owner, operator, member of a governing  
11 body, or authorized representative of a home for the aged shall not  
12 be present in a home for the aged if he or she has been convicted  
13 of either of the following:

14 (a) Vulnerable adult abuse, neglect, or financial  
15 exploitation.

16 (b) A listed offense as defined in section 2 of the sex  
17 offenders registration act, 1994 PA 295, MCL 28.722.

18 Sec. 21332. A home for the aged shall offer each resident, or  
19 shall provide each resident with information and assistance in  
20 obtaining, an annual vaccination against influenza in accordance  
21 with the most recent recommendations of the ~~advisory committee on~~  
22 ~~immunization practices~~ **ADVISORY COMMITTEE ON IMMUNIZATION PRACTICES**  
23 of the federal ~~centers for disease control and prevention,~~ **CENTERS**  
24 **FOR DISEASE CONTROL AND PREVENTION**, as approved by the department  
25 of ~~community health~~ **AND HUMAN SERVICES**.

26 Sec. 21601. (1) As used in this part:

27 (a) "Active patient" means a person who has received any type

1 of dental care in a mobile dental facility in the preceding 24  
2 months.

3 (b) "Assessment of a patient" means a limited clinical  
4 inspection that is performed to identify possible signs of oral or  
5 systemic disease, malformation, or injury, and the potential need  
6 for referral for diagnosis and treatment.

7 (c) "Clinical evaluation" means a diagnostic service provided  
8 by a dentist that includes a complete intra- and extra-oral  
9 inspection, may include other modalities of examination to identify  
10 signs of oral or systemic disease, malformation, or injury, and may  
11 include the completion of diagnosis and treatment planning to  
12 determine the treatment needs of an individual patient.

13 (d) "Comprehensive dental services" means clinical evaluation,  
14 including diagnosis and treatment planning; imagery services; and  
15 indicated treatment that may include preventative, restorative, and  
16 surgical procedures that are considered necessary for an individual  
17 patient.

18 (e) "Dental home" means a network of individualized care based  
19 on risk assessment, that includes oral health education, dental  
20 screenings, preventative dental services, diagnostic services,  
21 comprehensive dental services, and emergency services.

22 (f) "Department" means the department of ~~community~~-health **AND**  
23 **HUMAN SERVICES**.

24 (g) "Imagery" means visualization of oral and facial  
25 structures using specialized instruments and techniques for  
26 diagnostic purposes.

27 (h) "Memorandum of agreement" means written documentation of

1 an agreement between parties to work together cooperatively on an  
2 agreed-upon project or meet an agreed-upon objective. The purpose  
3 of a memorandum of agreement is to have a written understanding of  
4 the agreement between the parties. A memorandum of agreement serves  
5 as a legal document that is binding and holds the parties  
6 responsible to their commitment along with describing the terms and  
7 details of the cooperative agreement. A memorandum of agreement may  
8 be used between agencies, the public, the federal or state  
9 government, communities, and individuals.

10 (i) "Mobile dental facility" means either of the following:

11 (i) A self-contained, intact facility in which dentistry or  
12 dental hygiene is practiced that may be transported from 1 location  
13 to another.

14 (ii) A site used on a temporary basis to provide dental  
15 services using portable equipment.

16 (j) "Operator" means either of the following:

17 (i) An individual with a valid, current license to practice  
18 dentistry or dental hygiene in this state who utilizes and holds a  
19 permit under this part for a mobile dental facility.

20 (ii) A corporation, limited liability company, partnership, or  
21 any governmental agency contracting with individuals licensed to  
22 practice dentistry in this state or dental hygienists licensed in  
23 this state, that utilizes and holds a permit under this part for a  
24 mobile dental facility.

25 (k) "Preventative dental services" means dental services that  
26 include, but are not limited to, screening of a patient, assessment  
27 of a patient, prophylaxis, fluoride treatments, and application of

1 sealants. Imagery studies are not preventative dental services.

2 (l) "Screening of a patient" means screening, including state-  
3 or federally mandated screening, to determine an individual's need  
4 to be seen by a dentist for diagnosis.

5 (2) In addition, article 1 contains general definitions and  
6 principles of construction applicable to this part.

7 Sec. 21716. A nursing home shall offer each resident, or shall  
8 provide each resident with information and assistance in obtaining,  
9 an annual vaccination against influenza in accordance with the most  
10 recent recommendations of the ~~advisory committee on immunization~~  
11 ~~practices~~ **ADVISORY COMMITTEE ON IMMUNIZATION PRACTICES** of the  
12 federal ~~centers for disease control and prevention,~~ **CENTERS FOR**  
13 **DISEASE CONTROL AND PREVENTION**, as approved by the department of  
14 ~~community health~~ **AND HUMAN SERVICES**.

15 Sec. 21766. (1) A nursing home shall execute a written  
16 contract solely with an applicant or patient or that applicant's or  
17 patient's guardian or legal representative authorized by law to  
18 have access to those portions of the patient's or applicant's  
19 income or assets available to pay for nursing home care, at each of  
20 the following times:

21 (a) At the time an individual is admitted to a nursing home.

22 (b) At the expiration of the term of a previous contract.

23 (c) At the time the source of payment for the patient's care  
24 changes.

25 (2) A nursing home shall not discharge or transfer a patient  
26 at the expiration of the term of a contract, except as provided in  
27 section 21773.

1           (3) A nursing home shall specifically notify in writing an  
2 applicant or patient or that applicant's or patient's guardian or  
3 legal representative of the availability or lack of availability of  
4 hospice care in the nursing home. This written notice shall be by  
5 way of a specific paragraph located in the written contract  
6 described in subsection (1) and shall require the applicant or  
7 patient or that applicant's or patient's guardian or legal  
8 representative to sign or initial the paragraph before execution of  
9 the written contract. As used in this subsection, "hospice" means  
10 that term as defined in section 20106(4).

11           (4) A nursing home shall provide a copy of the contract to the  
12 patient, the patient's representative, or the patient's legal  
13 representative or legal guardian at the time the contract is  
14 executed.

15           (5) For a patient supported by funds other than the patient's  
16 own funds, a nursing home shall make a copy of the contract  
17 available to the person providing the funds for the patient's  
18 support.

19           (6) For a patient whose care is reimbursed with public funds  
20 administered by the department of ~~community~~ health **AND HUMAN**  
21 **SERVICES**, a nursing home shall maintain a copy of the contract in  
22 the patient's file at the nursing home and upon request shall make  
23 a copy of the contract available to the department of ~~community~~  
24 health **AND HUMAN SERVICES**.

25           (7) The nursing home shall ensure that the contract is written  
26 in clear and unambiguous language and is printed in not less than  
27 12-point type. The form of the contract shall be prescribed by the

1 department.

2 (8) The contract shall specify all of the following:

3 (a) The term of the contract.

4 (b) The services to be provided under the contract, including  
5 the availability of hospice or other special care, and the charges  
6 for the services.

7 (c) The services that may be provided to supplement the  
8 contract and the charges for the services.

9 (d) The sources liable for payments due under the contract.

10 (e) The amount of deposit paid and the general and foreseeable  
11 terms upon which the deposit will be held and refunded.

12 (f) The rights, duties, and obligations of the patient, except  
13 that the specification of a patient's rights may be furnished on a  
14 separate document that complies with the requirements of section  
15 20201.

16 (9) The nursing home may require a patient's or applicant's  
17 guardian or legal representative who is authorized by law to have  
18 access to those portions of the patient's or applicant's income or  
19 assets available to pay for nursing home care to sign a contract  
20 without incurring personal financial liability other than for funds  
21 received in his or her legal capacity on behalf of the patient.

22 (10) A nursing home employee may request the appointment of a  
23 guardian for an individual applicant or patient only if the nursing  
24 home employee reasonably believes that the individual meets the  
25 legal requirements for the appointment of a guardian.

26 Sec. 21773. (1) A nursing home shall not involuntarily  
27 transfer or discharge a patient except for 1 or more of the

1 following purposes:

2 (a) Medical reasons.

3 (b) The patient's welfare.

4 (c) The welfare of other patients or nursing home employees.

5 (d) Nonpayment for the patient's stay, except as prohibited by  
6 title XIX of the social security act, ~~chapter 531, 49 Stat. 620, 42~~  
7 ~~U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.~~ **42 USC 1396 TO 1396W-5.**

8 (2) A licensed nursing home shall provide written notice at  
9 least 30 days before a patient is involuntarily transferred or  
10 discharged. The 30-day requirement of this subsection does not  
11 apply in any of the following instances:

12 (a) If an emergency transfer or discharge is mandated by the  
13 patient's health care needs and is in accord with the written  
14 orders and medical justification of the attending physician.

15 (b) If the transfer or discharge is mandated by the physical  
16 safety of other patients and nursing home employees as documented  
17 in the clinical record.

18 (c) If the transfer or discharge is subsequently agreed to by  
19 the patient or the patient's legal guardian, and notification is  
20 given to the next of kin and the person or agency responsible for  
21 the patient's placement, maintenance, and care in the nursing home.

22 (3) The notice required by subsection (2) shall be on a form  
23 prescribed by the department ~~of consumer and industry services~~ and  
24 shall contain all of the following:

25 (a) The stated reason for the proposed transfer.

26 (b) The effective date of the proposed transfer.

27 (c) A statement in not less than 12-point type that reads:

1 "You have a right to appeal the nursing home's decision to transfer  
2 you. If you think you should not have to leave this facility, you  
3 may file a request for a hearing with the department of ~~consumer~~  
4 ~~and industry services~~ **LICENSING AND REGULATORY AFFAIRS** within 10  
5 days after receiving this notice. If you request a hearing, it will  
6 be held at least 7 days after your request, and you will not be  
7 transferred during that time. If you lose the hearing, you will not  
8 be transferred until at least 30 days after you received the  
9 original notice of the discharge or transfer. A form to appeal the  
10 nursing home's decision and to request a hearing is attached. If  
11 you have any questions, call the department of ~~consumer and~~  
12 ~~industry services~~ **LICENSING AND REGULATORY AFFAIRS** at the number  
13 listed below."

14 (d) A hearing request form, together with a postage paid,  
15 preaddressed envelope to the department. ~~of consumer and industry~~  
16 ~~services.~~

17 (e) The name, address, and telephone number of the responsible  
18 official in the department. ~~of consumer and industry services.~~

19 (4) A request for a hearing made under subsection (3) shall  
20 stay a transfer pending a hearing or appeal decision.

21 (5) A copy of the notice required by subsection (3) shall be  
22 placed in the patient's clinical record and a copy shall be  
23 transmitted to the department, ~~of consumer and industry services,~~  
24 the patient, the patient's next of kin, patient's representative,  
25 or legal guardian, and the person or agency responsible for the  
26 patient's placement, maintenance, and care in the nursing home.

27 (6) If the basis for an involuntary transfer or discharge is



1 the result of a negative action by the department of ~~community~~  
2 health **AND HUMAN SERVICES** with respect to a ~~medicaid~~**MEDICAID**  
3 client and a hearing request is filed with ~~that~~**THE** department **OF**  
4 **HEALTH AND HUMAN SERVICES**, the 21-day written notice period of  
5 subsection (2) does not begin until a final decision in the matter  
6 is rendered by the department of ~~community~~ health **AND HUMAN**  
7 **SERVICES** or a court of competent jurisdiction and notice of that  
8 final decision is received by the patient and the nursing home.

9 (7) If nonpayment is the basis for involuntary transfer or  
10 discharge, the patient may redeem up to the date that the discharge  
11 or transfer is to be made and then may remain in the nursing home.

12 (8) The nursing home administrator or other appropriate  
13 nursing home employee designated by the nursing home administrator  
14 shall discuss an involuntary transfer or discharge with the  
15 patient, the patient's next of kin or legal guardian, and person or  
16 agency responsible for the patient's placement, maintenance, and  
17 care in the nursing home. The discussion shall include an  
18 explanation of the reason for the involuntary transfer or  
19 discharge. The content of the discussion and explanation shall be  
20 summarized in writing and shall include the names of the  
21 individuals involved in the discussions and made a part of the  
22 patient's clinical record.

23 (9) The nursing home shall provide the patient with counseling  
24 services before the involuntary transfer or discharge and the  
25 department shall ~~assure~~**ENSURE** that counseling services are  
26 available after the involuntary transfer or discharge to minimize  
27 the possible adverse effect of the involuntary transfer or

1 discharge.

2 (10) If a nursing home voluntarily withdraws from  
3 participation in the state plan for ~~medicaid~~**MEDICAID** funding, but  
4 continues to provide services, the nursing home shall not, except  
5 as provided in subsection (1), involuntarily transfer or discharge  
6 a patient, whether or not the patient is eligible for ~~medicaid~~  
7 **MEDICAID** benefits, who resided in the nursing home on the day  
8 before the effective date of the nursing home's withdrawal from  
9 participation. The prohibition against transfer or discharge  
10 imposed by this subsection continues unless the patient falls  
11 within 1 or more of the exceptions described in subsection (1).

12 (11) If an individual becomes a patient of a nursing home  
13 after the date the nursing home withdraws from participation in the  
14 state plan for ~~medicaid~~**MEDICAID** funding, the nursing home, on or  
15 before the date the individual signs a contract with the nursing  
16 home, shall provide to the patient oral and written notice of both  
17 of the following:

18 (a) That the nursing home is not participating in the state  
19 plan for ~~medicaid~~**MEDICAID** funding.

20 (b) That the facility may involuntarily transfer or discharge  
21 the patient for nonpayment under subsection (1)(d) even if the  
22 patient is eligible for ~~medicaid~~**MEDICAID** benefits.

23 Sec. 21777. (1) If a patient is temporarily absent from a  
24 nursing home for emergency medical treatment, the nursing home  
25 shall hold the bed open for 10 days for that patient in the  
26 patient's absence, if there is a reasonable expectation that the  
27 patient will return within that period of time and the nursing home

1 receives payment for each day during the absent period.

2 (2) If a patient is temporarily absent from a nursing home for  
3 therapeutic reasons as approved by a physician, the nursing home  
4 shall hold the bed open for 18 days, if there is a reasonable  
5 expectation that the patient will return within that period of time  
6 and the nursing home receives payment for each day during the  
7 absent period. Temporary absences for therapeutic reasons are  
8 limited to 18 days per year.

9 (3) When a patient's absence is longer than specified under  
10 subsection (1) or (2), or both, the patient has the option to  
11 return to the nursing home for the next available bed.

12 (4) For title ~~19~~-**XIX** patients, the department of ~~community~~  
13 health **AND HUMAN SERVICES** shall continue funding for the temporary  
14 absence as provided under subsections (1) and (2) if the nursing  
15 home is at 98% or more occupancy except for any bed being held open  
16 under subsection (1) or (2).

17 Sec. 21799b. (1) If, upon investigation, the department ~~of~~  
18 ~~consumer and industry services~~ finds that a licensee is not in  
19 compliance with this part, a rule promulgated under this part, or a  
20 federal law or regulation governing nursing home certification  
21 under title XVIII or XIX, which noncompliance impairs the ability  
22 of the licensee to deliver an acceptable level of care and  
23 services, or in the case of a nursing home closure, the department  
24 ~~of consumer and industry services~~ shall notify the department of  
25 ~~community~~ health **AND HUMAN SERVICES** of the finding and may issue 1  
26 or more of the following correction notices to the licensee:

27 (a) Suspend the admission or readmission of patients to the

1 nursing home.

2 (b) Reduce the licensed capacity of the nursing home.

3 (c) Selectively transfer patients whose care needs are not  
4 being met by the licensee.

5 (d) Initiate action to place the home in receivership as  
6 prescribed in section 21751.

7 (e) Require appointment at the nursing home's expense of a  
8 ~~department approved~~ **DEPARTMENT-APPROVED** temporary administrative  
9 advisor or a temporary clinical advisor, or both, with authority  
10 and duties specified by the department to assist the nursing home  
11 management and staff to achieve sustained compliance with required  
12 operating standards.

13 (f) Require appointment at the nursing home's expense of a  
14 ~~department approved~~ **DEPARTMENT-APPROVED** temporary manager with  
15 authority and duties specified by the department to oversee the  
16 nursing home's achievement of sustained compliance with required  
17 operating standards or to oversee the orderly closure of the  
18 nursing home.

19 (g) Issue a correction notice to the licensee and the  
20 department of ~~community health~~ **AND HUMAN SERVICES** describing the  
21 violation and the statute or rule violated and specifying the  
22 corrective action to be taken and the period of time in which the  
23 corrective action is to be completed. Upon issuance, the director  
24 shall cause to be published in a daily newspaper of general  
25 circulation in an area in which the nursing home is located notice  
26 of the action taken and the listing of conditions upon which the  
27 director's action is predicated.

1           (2) Within 72 hours after receipt of a notice issued under  
2 subsection (1), the licensee shall be given an opportunity for a  
3 hearing on the matter. The director's notice shall continue in  
4 effect during the pendency of the hearing and any subsequent court  
5 proceedings. The hearing shall be conducted in compliance with the  
6 administrative procedures act of 1969.

7           (3) A licensee who believes that a correction notice has been  
8 complied with may request a verification of compliance from the  
9 department. Not later than 72 hours after the licensee makes the  
10 request, the department shall investigate to determine whether the  
11 licensee has taken the corrective action prescribed in the notice  
12 under subsection (1)(g). If the department finds that the licensee  
13 has taken the corrective action and that the conditions giving rise  
14 to the notice have been alleviated, the department may cease taking  
15 further action against the licensee, or may take other action that  
16 the director considers appropriate.

17           (4) As used in this part, "title XVIII" and "title XIX" mean  
18 those terms as defined in section 20155.

19           (5) The department shall report annually to the house and  
20 senate standing committees on senior issues on the number of times  
21 the department appointed a temporary administrative advisor,  
22 temporary clinical advisor, and temporary manager as described in  
23 subsection (1)(e) or (f). The report shall include whether the  
24 nursing home closed or remained open. The department may include  
25 this report with other reports made to fulfill legislative  
26 reporting requirements.

27           (6) If the department determines that a nursing home's

1 patients can be safeguarded and provided with a safe environment,  
2 the department shall make its decisions concerning the nursing  
3 home's future operation based on a presumption in favor of keeping  
4 the nursing home open.

5       Sec. 21799c. (1) A person who violates 1 of the following  
6 sections is guilty of a misdemeanor, punishable by imprisonment for  
7 not more than 1 year or a fine of not less than \$1,000.00, nor more  
8 than \$10,000.00, or both:

9       (a) Section 21711.

10       (b) Section 21712.

11       (c) Section 21763(5).

12       (d) Section 21765a(1) or (2).

13       (e) Section 21771(1) or (6).

14       (f) Section 21791.

15       (2) A person who violates section 21765a(1) or (2) is liable  
16 to an applicant or patient in a civil action for treble the amount  
17 of actual damages or \$1,000.00, whichever is greater, together with  
18 costs and reasonable attorney fees.

19       (3) For the purpose of computing administrative penalties  
20 under this section, the number of patients per day is based on the  
21 average number of patients in the nursing home during the 30 days  
22 immediately preceding the discovery of the violation.

23       (4) If the department finds a violation of section 20201 as to  
24 a particular nursing home patient, the department shall issue an  
25 order requiring the nursing home to pay to the patient \$100.00, or  
26 to reimburse the patient for costs incurred or injuries sustained  
27 as a result of the violation, whichever is greater. The department

1 also shall assess the nursing home an administrative penalty that  
2 is the lesser of the following:

3 (a) Not more than \$1,500.00.

4 (b) \$15.00 per patient bed.

5 (5) The department of ~~community health~~ **AND HUMAN SERVICES**  
6 shall promulgate rules for a quality of care allowance formula that  
7 is consistent with the recommendations of the fiscal incentives  
8 subcommittee to the committee on nursing home reimbursement  
9 established pursuant ~~ACCORDING to Act No. 241 of the Public Acts of~~  
10 ~~1975,~~ **FORMER 1975 PA 241**, as described in the November 24, 1975  
11 interim report, in the December 3, 1975 final report, and the  
12 November 24, 1976 report of the committee recommending appropriate  
13 changes in the procedures utilized.

14 (6) The department shall not assess an administrative penalty  
15 under subsection (4) for a violation of this part for which a  
16 nursing home's reimbursement is withheld under subsection (5).

17 Sec. 22205. (1) "Health facility", except as otherwise  
18 provided in subsection (2), means:

19 (a) A hospital licensed under part 215.

20 (b) A psychiatric hospital or psychiatric unit licensed under  
21 the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

22 (c) A nursing home licensed under part 217 or a hospital long-  
23 term care unit as defined in section 20106(6).

24 (d) A freestanding surgical outpatient facility licensed under  
25 part 208.

26 (e) A health maintenance organization issued a license or  
27 certificate of authority in this state.

1 (2) "Health facility" does not include the following:

2 (a) An institution conducted by and for the adherents of a  
3 church or religious denomination for the purpose of providing  
4 facilities for the care and treatment of the sick who depend solely  
5 upon spiritual means through prayer for healing.

6 (b) A health facility or agency located in a correctional  
7 institution.

8 (c) A veterans facility operated by the state or federal  
9 government.

10 (d) A facility owned and operated by the department of  
11 ~~community health~~ **AND HUMAN SERVICES**.

12 (3) "Initiate" means the offering of a covered clinical  
13 service that has not been offered in compliance with this part or  
14 former part 221 on a regular basis at that location within the 12-  
15 month period immediately preceding the date the covered clinical  
16 service will be offered.

17 (4) "Medical equipment" means a single equipment component or  
18 a related system of components that is used for clinical purposes.

19 Sec. 22207. (1) "Medicaid" means the program for medical  
20 assistance administered by the department of ~~community health~~ **AND**  
21 **HUMAN SERVICES** under the social welfare act, 1939 PA 280, MCL 400.1  
22 to 400.119b.

23 (2) "Modernization" means an upgrading, alteration, or change  
24 in function of a part or all of the physical plant of a health  
25 facility. Modernization includes, but is not limited to, the  
26 alteration, repair, remodeling, and renovation of an existing  
27 building and initial fixed equipment and the replacement of



1 obsolete fixed equipment in an existing building. Modernization of  
2 the physical plant does not include normal maintenance and  
3 operational expenses.

4 (3) "New construction" means construction of a health facility  
5 where a health facility does not exist or construction replacing or  
6 expanding an existing health facility or a part of an existing  
7 health facility.

8 (4) "Person" means a person as defined in section 1106 or a  
9 governmental entity.

10 (5) "Planning area" means the area defined in a certificate of  
11 need review standard for determining the need for, and the resource  
12 allocation of, a specific health facility, service, or equipment.  
13 Planning area includes, but is not limited to, the state, a health  
14 facility service area, or a health service area or subarea within  
15 the state.

16 (6) "Proposed project" means a proposal to acquire an existing  
17 health facility or begin operation of a new health facility, make a  
18 change in bed capacity, initiate, replace, or expand a covered  
19 clinical service, or make a covered capital expenditure.

20 (7) "Rural county" means a county not located in a  
21 metropolitan statistical area or micropolitan statistical areas as  
22 those terms are defined under the "standards for defining  
23 metropolitan and micropolitan statistical areas" by the ~~statistical~~  
24 ~~policy office of the office of information and regulatory affairs~~  
25 **STATISTICAL POLICY OFFICE OF THE OFFICE OF INFORMATION AND**  
26 **REGULATORY AFFAIRS** of the United States ~~office of management and~~  
27 ~~budget,~~ **OFFICE OF MANAGEMENT AND BUDGET**, 65 F.R. ~~FR~~ p. 82238

1 (December 27, 2000).

2 (8) "Stipulation" means a requirement that is germane to the  
3 proposed project and has been agreed to by an applicant as a  
4 condition of certificate of need approval.

5 Enacting section 1. This amendatory act takes effect 90 days  
6 after the date it is enacted into law.