

SENATE BILL No. 1208

July 18, 2012, Introduced by Senator WHITMER and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 2701, 2705, 2709, 5119, 16146, 16148, 16161,
16163, 16327, 17201, 17210, 17211, 17221, 20104, 20106, and 20161
(MCL 333.2701, 333.2705, 333.2709, 333.5119, 333.16146,
333.16148, 333.16161, 333.16163, 333.16327, 333.17201, 333.17210,
333.17211, 333.17221, 333.20104, 333.20106, and 333.20161),
sections 2701, 2705, and 2709 as added by 1990 PA 16, section
5119 as amended by 2000 PA 209, section 16146 as amended by 2006
PA 26, section 16148 as amended by 1995 PA 115, section 16161 as
amended by 1989 PA 202, section 16163 as amended by 2002 PA 643,
section 16327 as amended by 2009 PA 216, sections 17211 and 17221
as amended by 2006 PA 409, section 20104 as amended by 2010 PA
381, section 20106 as amended by 2000 PA 253, and section 20161

as amended by 2011 PA 144, and by adding sections 17202, 17210a, and 17221a and part 208A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2701. As used in this part:

2 (a) "Board certified" means certified to practice in a
3 particular medical speciality by a national board recognized by
4 the American board of medical specialties or the American
5 osteopathic association.

6 ~~(b) "Certified nurse midwife" means an individual licensed
7 as a registered professional nurse under part 172 who has been
8 issued a specialty certification in the practice of nurse
9 midwifery by the board of nursing under section 17210.~~

10 **(B)** ~~(e)~~ "Certified nurse practitioner" means an individual
11 licensed as a registered professional nurse under part 172 who
12 has been issued a specialty certification as a nurse practitioner
13 by the board of nursing under section 17210.

14 **(C)** ~~(d)~~ "Designated nurse" means a ~~certified nurse~~ **LICENSED**
15 midwife or certified nurse practitioner.

16 **(D)** ~~(e)~~ "Designated physician" means a physician qualified
17 in 1 of the physician specialty areas identified in section 2711.

18 **(E)** ~~(f)~~ "Designated professional" means a designated
19 physician, designated nurse, or physician's assistant.

20 **(F)** ~~(g)~~ "Health resource shortage area" means a geographic
21 area, population group, or health facility designated by the
22 department under section 2717.

23 **(G) "LICENSED MIDWIFE" MEANS A REGISTERED PROFESSIONAL NURSE
24 WHO IS LICENSED AS A MIDWIFE UNDER PART 172.**

1 (h) "Medicaid" means benefits under the program of medical
2 assistance established under title XIX of the social security
3 act, 42 U.S.C. ~~USC 1396 to 1396d, 1396f to 1396g, and 1396i to~~
4 ~~1396s, 1396W-5,~~ and administered by the department of ~~social~~
5 **HUMAN** services under the social welfare act, ~~Act No. 280 of the~~
6 ~~Public Acts of 1939, being sections 400.1 to 400.121 of the~~
7 ~~Michigan Compiled Laws. 1939 PA 289, MCL 400.1 TO 400.119B.~~

8 (i) "Medical school" means an accredited program for the
9 training of individuals to become physicians.

10 (j) "Medicare" means benefits under the federal medicare
11 program established under title XVIII of the social security act,
12 ~~42 U.S.C. 1395 to 1395b, 1395b-2 to 1395i, 1395i-1a to 1395i-2,~~
13 ~~1395j to 1395dd, 1395ff to 1395mm, and 1395oo to 1395ccc. 42 USC~~
14 **1395 TO 1395KKK.**

15 (k) "National health service corps" means the agency
16 established under ~~section 331 of title III of the public health~~
17 ~~service act, 42 U.S.C. 254d. 42 USC 254D.~~

18 (l) "Nurse" means an individual licensed to engage in the
19 practice of nursing under part 172.

20 (m) "Nursing program" means an accredited program for the
21 training of individuals to become nurses.

22 (n) "Physician" means an individual licensed as a physician
23 under part 170 or an osteopathic physician under part 175.

24 (o) "Physician's assistant" means an individual licensed as
25 a physician's assistant under part 170 or part 175.

26 (p) "Physician's assistant program" means an accredited
27 program for the training of individuals to become physician's

1 assistants.

2 (Q) "REGISTERED PROFESSIONAL NURSE" MEANS THAT TERM AS
3 DEFINED IN SECTION 17201.

4 (R) ~~(q)~~"Service obligation" means the contractual
5 obligation undertaken by an individual under section 2705 or
6 section 2707 to provide health care services for a determinable
7 time period at a site designated by the department.

8 Sec. 2705. (1) The department shall administer an essential
9 health provider repayment program for designated professionals
10 who have incurred a debt or expenses as a result of a loan taken
11 to attend a medical school, nursing program for the training of
12 ~~certified nurse~~**LICENSED** midwives or certified nurse
13 practitioners, or physician's assistant program or as a result of
14 providing services in a health resource shortage area. The
15 department may each year repay all or part of a designated
16 professional's debt or expenses in an amount ~~not to~~**THAT DOES NOT**
17 exceed the amount set forth in subsection (3) for each year, up
18 to a maximum of 4 years. The department shall repay a debt or
19 expenses only for a designated professional who has entered into
20 a written contract with the department that requires the
21 designated professional to engage in the full-time practice of
22 health care services in a health resource shortage area to which
23 he or she is assigned by the department for a period equal in
24 years to the number of years for which the department has agreed
25 to make a debt or expense repayment or 2 years, whichever is
26 greater.

27 (2) A debt or expense repayment on behalf of a designated

1 professional under subsection (1) for fulfilling a service
2 obligation for a particular year shall be paid in a lump sum at
3 the completion of the service obligation for that year. A
4 designated professional who does not fulfill a service obligation
5 for a particular year forfeits his or her right to the debt or
6 expense repayment or any part of it for that year and the
7 department may treat an agreement for further debt or expense
8 repayment in a subsequent year as void. In its sole discretion,
9 the department may make a debt or expense repayment prior to or
10 during each year of service if there are extenuating
11 circumstances. In its sole discretion, the department may pay a
12 pro rata amount of an agreed debt or expense repayment to a
13 designated professional or his or her estate if 1 of the
14 following occurs prior to the completion of the designated
15 professional's service obligation:

16 (a) The designated professional dies.

17 (b) The designated professional is unable, by reason of
18 permanent disability, to render the service.

19 (c) Other circumstances prevail that are considered by the
20 department to constitute a compelling reason to consider the
21 service obligation fulfilled.

22 (3) For the first year of the debt or expense repayment
23 program, the maximum amount of a debt or expense repayment is
24 \$25,000.00 per year. In each succeeding year after the first
25 year, the maximum amount may be increased by 5%.

26 (4) The department may accept funds from any source for the
27 operation of the essential health provider repayment program, and

1 shall distribute those funds in a manner consistent with this
2 section.

3 (5) The department shall give the essential health provider
4 repayment program created by this section priority over the other
5 programs created under this part.

6 Sec. 2709. The department may cooperate with a ~~certified~~
7 **LICENSED** nurse midwifery service to support the placement of
8 ~~certified nurse~~**LICENSED** midwives in health resource shortage
9 areas.

10 Sec. 5119. (1) An individual applying for a marriage license
11 shall be advised through the distribution of written educational
12 materials by the county clerk regarding prenatal care and the
13 transmission and prevention of venereal disease and HIV
14 infection. The written educational materials shall describe the
15 availability to the applicant of tests for both venereal disease
16 and HIV infection. The information shall include a list of
17 locations where HIV counseling and testing services funded by the
18 department are available. The written educational materials shall
19 be approved or prepared by the department.

20 (2) A county clerk shall not issue a marriage license to an
21 applicant who fails to sign and file with the county clerk an
22 application for a marriage license that includes a statement with
23 a check-off box indicating that the applicant has received the
24 educational materials regarding the transmission and prevention
25 of both venereal disease and HIV infection and has been advised
26 of testing for both venereal disease and HIV infection, pursuant
27 to subsection (1).

1 (3) If either applicant for a marriage license undergoes a
 2 test for HIV or an antibody to HIV, and if the test results
 3 indicate that an applicant is HIV infected, the physician or a
 4 designee of the physician, the physician's assistant, the
 5 ~~certified nurse~~ **LICENSED** midwife, or the certified nurse
 6 practitioner or the local health officer or designee of the local
 7 health officer administering the test immediately shall inform
 8 both applicants of the test results, and shall counsel both
 9 applicants regarding the modes of HIV transmission, the potential
 10 for HIV transmission to a fetus, and protective measures.

11 (4) As used in this section:

12 ~~—— (a) "Certified nurse midwife" means an individual licensed~~
 13 ~~as a registered professional nurse under part 172 who has been~~
 14 ~~issued a specialty certification in the practice of nurse~~
 15 ~~midwifery by the board of nursing under section 17210.~~

16 **(A)** ~~(b)~~ "Certified nurse practitioner" means an individual
 17 licensed as a registered professional nurse under part 172 who
 18 has been issued a specialty certification as a nurse practitioner
 19 by the board of nursing under section 17210.

20 **(B) "LICENSED MIDWIFE" MEANS A REGISTERED PROFESSIONAL**
 21 **NURSE, AS THAT TERM IS DEFINED IN SECTION 17201, WHO IS LICENSED**
 22 **AS A MIDWIFE UNDER PART 172.**

23 (c) "Physician" means an individual licensed as a physician
 24 under part 170 or an osteopathic physician under part 175.

25 (d) "Physician's assistant" means an individual licensed as
 26 a physician's assistant under part 170 or part 175.

27 Sec. 16146. (1) A board shall grant a license or

1 registration to an applicant ~~meeting~~ **WHO MEETS** the requirements
2 for the license or registration ~~as prescribed in~~ **UNDER** this
3 article and the rules promulgated under this article. **AS USED IN**
4 **THIS SUBSECTION, "BOARD" INCLUDES THE MIDWIFE TASK FORCE CREATED**
5 **IN SECTION 17221A.**

6 (2) A board ~~which~~ **THAT** grants licenses may:

7 (a) Certify licensees in those health profession specialty
8 fields within its scope of practice ~~which~~ **THAT** are established in
9 this article.

10 (b) Reclassify licenses on the basis of a determination that
11 the addition or removal of conditions or restrictions is
12 appropriate.

13 (c) ~~Upon~~ **FOR** good cause, request that a licensee or
14 registrant have a criminal history check conducted in accordance
15 with section 16174(3).

16 Sec. 16148. (1) Except as provided in section 17060 **OR**
17 **17221A**, only a board may promulgate rules to establish standards
18 for the education and training of individuals to be licensed or
19 registered, or whose licenses or registrations are to be renewed,
20 for the purposes of determining whether graduates of a training
21 program have the knowledge and skills requisite for practice of a
22 health profession or use of a title.

23 (2) Except as provided in section 17060 **OR 17221A** and
24 subject to subsection (6), only a board may accredit training
25 programs in hospitals, schools, colleges, universities, and
26 institutions offering training programs meeting educational
27 standards and may deny or withdraw accreditation of training

1 programs for failure to meet established standards. A hospital,
2 school, college, university, or institution that has its program
3 accreditation withdrawn shall have an opportunity for a hearing.

4 (3) An action or decision of a board ~~pursuant to~~ **UNDER**
5 subsection (1) or (2) relating to a specific health profession
6 subfield shall be made only after consultation with the task
7 force in the affected health profession subfield, **IF ANY**, and
8 with at least 1 of the affected health profession subfield board
9 members present.

10 (4) A member of a licensing board from the health profession
11 subfield shall vote as an equal member in all matters except
12 those issues ~~designated~~ **DESCRIBED** in subsections (1) and (2) that
13 are outside the health profession subfield.

14 (5) A decision of a board on standards for the education and
15 training of individuals or the accreditation of a training
16 program under subsection (1) or (2) shall be concurred in by a
17 majority of the board members who are not health profession
18 subfield licensees if the decision relates solely to licenses
19 that are not health profession subfield licenses.

20 (6) The requirement of ~~rule 305(2)(b)(iii), being~~ **SUBSECTION**
21 **(2)(B)(iii) OF** R 338.10305 of the Michigan administrative code,
22 that each member of the nursing faculty in a program of nursing
23 education for registered nurses who provides instruction in the
24 clinical laboratory or cooperating agencies hold a baccalaureate
25 degree in nursing science does not apply to a member of the
26 nursing faculty described in this subsection who meets both of
27 the following requirements:

1 (a) ~~was~~**WAS** employed by or under contract to a program of
2 nursing education on or before September 1, 1989.

3 (b) Is employed by or under contract to a program of nursing
4 education on the effective date of the amendatory act that added
5 this subsection.

6 (7) The requirement of ~~rule 305(2)(e)(ii)~~, being **SUBSECTION**
7 **(2)(C)(ii) OF** R 338.10305 of the Michigan administrative code,
8 that each member of the nursing faculty in a program of nursing
9 education for licensed practical nurses hold a baccalaureate
10 degree in nursing science does not apply to a member of the
11 nursing faculty described in this subsection who meets both of
12 the following requirements:

13 (a) Was employed by or under contract to a program of
14 nursing education on or before September 1, 1989.

15 (b) Is employed by or under contract to a program of nursing
16 education on the effective date of the amendatory act that added
17 this subsection.

18 Sec. 16161. (1) If a health profession subfield task force
19 is created for a health profession, that task force shall serve
20 as the task force for all health profession subfields within the
21 scope of practice of the health profession and shall function as
22 set forth in this part.

23 (2) ~~If~~**EXCEPT AS PROVIDED IN SECTION 17221A, IF** a health
24 profession specialty field task force is created for a health
25 profession, that task force shall serve as the task force for all
26 health profession specialty fields within the scope of practice
27 of the health profession and shall function as set forth in this

1 part.

2 Sec. 16163. ~~A~~**EXCEPT AS PROVIDED IN SECTION 17221A**, A task
3 force shall recommend to the board as to:

4 (a) Determination of standards of education, training, and
5 experience required for practice in a health profession subfield
6 or for registration in a health profession specialty field, and
7 where appropriate, guidelines for approval of educational
8 programs for the health profession subfield or health profession
9 specialty field.

10 (b) Qualifications required of applicants for licensure in
11 health profession subfields or for registration in health
12 profession specialty fields.

13 (c) Evaluation of qualifications for initial and continuing
14 licensure of practitioners in health profession subfields or
15 health profession specialty fields. The evaluation may cover
16 assessment of educational credentials, work experience and
17 related training, and administration of tests and examinations.

18 (d) Guidelines for utilization of, and standards of practice
19 for, licensees in health profession subfields or registrants in
20 health profession specialty fields.

21 Sec. 16327. Fees for a person licensed or seeking licensure
22 to practice nursing as a registered nurse, a licensed practical
23 nurse, **A LICENSED MIDWIFE**, or a trained attendant under part 172
24 are as follows:

- 25 (a) Application processing fee..... \$ 24.00
- 26 (b) License fee, per year..... 30.00
- 27 (c) Temporary license..... 10.00

1	(d)	Limited license, per year.....	10.00
2	(e)	Specialty certification for	
3		registered nurse:	
4	(i)	Application processing fee.....	24.00
5	(ii)	Specialty certification, per year....	14.00

6 Sec. 17201. (1) As used in this part:

7 (A) "LICENSED MIDWIFE" MEANS A REGISTERED NURSE WHO IS
8 LICENSED UNDER THIS PART TO ENGAGE IN THE PRACTICE OF NURSING AS
9 A LICENSED MIDWIFE.

10 (B) "LICENSED PRACTICAL NURSE" OR "L.P.N." MEANS AN
11 INDIVIDUAL WHO IS LICENSED UNDER THIS PART TO ENGAGE IN THE
12 PRACTICE OF NURSING AS A LICENSED PRACTICAL NURSE.

13 (C) "MIDWIFE TASK FORCE" MEANS THE MIDWIFE TASK FORCE
14 CREATED IN SECTION 17221A.

15 (D) ~~(a)~~—"Practice of nursing" means the systematic
16 application of substantial specialized knowledge and skill,
17 derived from the biological, physical, and behavioral sciences,
18 to the care, treatment, counsel, and health teaching of
19 individuals who are experiencing changes in the normal health
20 processes or who require assistance in the maintenance of health
21 and the prevention or management of illness, injury, or
22 disability.

23 (E) ~~(b)~~—"Practice of nursing as a licensed practical nurse"
24 ~~or "l.p.n."~~—means the practice of nursing based on less
25 comprehensive knowledge and skill than that required of a
26 registered professional nurse and performed under the supervision
27 of a registered professional nurse, physician, or dentist.

1 (F) "PRACTICE OF NURSING AS A LICENSED MIDWIFE" MEANS THE
2 DELIVERY OF A BABY, NURSING SERVICES PERFORMED IN CONNECTION WITH
3 THE DELIVERY OF A BABY, OR PROVIDING HEALTH CARE RELATED TO
4 PREGNANCY, LABOR, DELIVERY, AND POSTPARTUM CARE OF A MOTHER AND
5 HER INFANT. THE TERM DOES NOT INCLUDE THE PRACTICE OF MEDICINE,
6 AS DEFINED IN SECTION 17001, OR THE PRACTICE OF OSTEOPATHIC
7 MEDICINE AND SURGERY, AS DEFINED IN SECTION 17501.

8 (G) ~~(e)~~—"Registered professional nurse" or "r.n." means an
9 individual WHO IS licensed under this ~~article~~—PART to engage in
10 the practice of nursing ~~which~~—AND WHOSE scope of practice
11 includes the teaching, direction, and supervision of less skilled
12 personnel in the performance of delegated nursing activities.

13 (2) In addition to the definitions in this part, article 1
14 contains general definitions and principles of construction
15 applicable to all articles in the code and part 161 contains
16 definitions applicable to this part.

17 SEC. 17202. (1) A LICENSED MIDWIFE SHALL ONLY PROVIDE THOSE
18 FUNCTIONS FOR WHICH LICENSED MIDWIVES ARE EDUCATIONALLY AND
19 EXPERIENTIALLY PREPARED.

20 (2) A LICENSED MIDWIFE SHALL DO ALL OF THE FOLLOWING:

21 (A) COMPLY WITH THE STANDARDS ESTABLISHED BY THE BOARD FOR
22 REGISTERED NURSES AND THE MIDWIFE TASK FORCE.

23 (B) CONSULT WITH OR REFER PATIENTS TO OTHER HEALTH
24 PROFESSIONALS AS APPROPRIATE.

25 (C) DIRECTLY SUPERVISE ANY STUDENTS, AS APPROPRIATE, AND ANY
26 INDIVIDUALS OBSERVING A BIRTH FOR PURPOSES OF SECTION
27 17210A(1)(B).

1 (D) TRANSFER A CLIENT TO A HOSPITAL FOR THE DELIVERY OF A
2 CHILD IF ANY OF THE FOLLOWING CONDITIONS OR CIRCUMSTANCES ARE
3 PRESENT OR OCCUR:

4 (i) ANY CONDITION OF THE MOTHER OR FETUS THAT CREATES A
5 SUBSTANTIAL RISK THAT THE PREGNANCY IS NOT A LOW-RISK PREGNANCY.

6 (ii) PRETERM LABOR OR PRETERM RUPTURE OF MEMBRANES.

7 (iii) ABNORMAL FETAL HEART RATE.

8 (iv) BREECH OR OTHER MALPRESENTATION OF THE FETUS.

9 (v) PREMATURE LABOR.

10 (vi) DELIVERY IS EXCESSIVELY OVERDUE.

11 (vii) LOW OR HIGH AMNIOTIC FLUID VOLUME.

12 (viii) THE MOTHER HAS DIABETES, HEART DISEASE, A BLOOD
13 DISEASE, OR ANY OTHER SIGNIFICANT MEDICAL CONDITION AND THE
14 TREATMENT OF THE CONDITION IS OUTSIDE OF THE SCOPE OF THE
15 PRACTICE OF NURSING AS A LICENSED MIDWIFE.

16 (ix) ANY OTHER CONDITION OR CIRCUMSTANCE THAT INDICATES TO A
17 REASONABLE MEDICAL PROFESSIONAL THAT A PHYSICIAN SHOULD ATTEND
18 THE BIRTH.

19 (x) ANY OTHER CONDITION OR CIRCUMSTANCE THAT THE MIDWIFE
20 TASK FORCE ESTABLISHES BY RULE AS A CONDITION OR CIRCUMSTANCE
21 THAT, IF IT IS PRESENT OR OCCURS, SHOULD RESULT IN THE TRANSFER
22 OF THE CLIENT TO A HOSPITAL FOR THE DELIVERY OF THE CHILD.

23 Sec. 17210. The board of nursing may issue a specialty
24 certification to a registered professional nurse who has advanced
25 training beyond that required for initial licensure and who has
26 demonstrated competency through examination or other evaluative
27 processes and who practices in 1 of the following health

1 profession specialty fields: ~~nurse midwifery~~, nurse anesthetist 7
2 or nurse practitioner.

3 SEC. 17210A. (1) THE MIDWIFE TASK FORCE SHALL ISSUE A
4 LICENSE AS A LICENSED MIDWIFE TO AN INDIVIDUAL WHO SUBMITS AN
5 APPLICATION FOR A LICENSE AS A LICENSED MIDWIFE IN THE FORM
6 PRESCRIBED BY THE MIDWIFE TASK FORCE AND MEETS ALL OF THE
7 FOLLOWING AS OF THE DATE OF APPLICATION:

8 (A) HOLDS A VALID LICENSE AS A REGISTERED PROFESSIONAL
9 NURSE.

10 (B) IN THE 24-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE
11 THE APPLICATION IS SUBMITTED, OBSERVES, AND PROVIDES PROOF TO THE
12 MIDWIFE TASK FORCE THAT HE OR SHE OBSERVED, AT LEAST 50 BIRTHS
13 UNDER THE DIRECT SUPERVISION OF A LICENSED MIDWIFE.

14 (C) AS DETERMINED BY THE MIDWIFE TASK FORCE, IS CERTIFIED,
15 OR MEETS THE STANDARDS FOR CERTIFICATION, BY A NATIONALLY
16 ACCREDITED CERTIFICATION BODY FOR LICENSED MIDWIVES.

17 (D) PRESENTS PROOF SATISFACTORY TO THE MIDWIFE TASK FORCE
18 THAT HE OR SHE IS COVERED BY A POLICY OF MALPRACTICE INSURANCE
19 THAT HAS A LIMIT OF AT LEAST \$100,000.00.

20 (E) PRESENTS PROOF SATISFACTORY TO THE MIDWIFE TASK FORCE
21 THAT HE OR SHE, OR HIS OR HER EMPLOYER IF HE OR SHE IS EMPLOYED
22 BY A FREESTANDING BIRTHING CENTER LICENSED UNDER PART 208A, HAS A
23 CONTRACTUAL RELATIONSHIP WITH AN OBSTETRICIAN-GYNECOLOGIST WHO IS
24 LICENSED AS A PHYSICIAN UNDER THIS ARTICLE, A GROUP OF PHYSICIANS
25 LICENSED UNDER THIS ARTICLE, OR A HOSPITAL LICENSED UNDER ARTICLE
26 17, THAT AGREES TO PROVIDE CONSULTING SERVICES DURING DELIVERIES.

27 (F) SUCCESSFULLY PASSES AN EXAMINATION APPROVED BY THE

1 MIDWIFE TASK FORCE.

2 (G) MEETS ANY ADDITIONAL MIDWIFE TRAINING REQUIREMENTS THAT
3 ARE ESTABLISHED BY THE MIDWIFE TASK FORCE BY RULE AND IN EFFECT
4 AT THE TIME THE APPLICATION IS SUBMITTED.

5 (2) THE MIDWIFE TASK FORCE SHALL ISSUE A LICENSE AS A
6 LICENSED MIDWIFE TO A REGISTERED PROFESSIONAL NURSE WHO MEETS
7 BOTH OF THE FOLLOWING:

8 (A) HE OR SHE HOLDS A SPECIALTY CERTIFICATION AS A NURSE
9 MIDWIFE THAT IS CURRENT ON THE EFFECTIVE DATE OF THIS SECTION.

10 (B) HE OR SHE REQUESTS THE LICENSE IN WRITING WITHIN 12
11 MONTHS AFTER THE DATE OF THIS SECTION.

12 (3) THE MIDWIFE TASK FORCE SHALL RENEW A LICENSE AS A
13 LICENSED MIDWIFE UNDER THIS PART CONCURRENTLY WITH THE RENEWAL OF
14 THE LICENSEE'S REGISTERED PROFESSIONAL NURSE LICENSE.

15 Sec. 17211. (1) A person shall not engage in the practice of
16 nursing, ~~or~~ the practice of nursing as a licensed practical
17 nurse, OR THE PRACTICE OF NURSING AS A LICENSED MIDWIFE unless
18 licensed or otherwise authorized by this article.

19 (2) AN INDIVIDUAL SHALL NOT PROVIDE MIDWIFE SERVICES WITHOUT
20 A LICENSE AS A LICENSED MIDWIFE UNDER THIS ARTICLE. AN INDIVIDUAL
21 SHALL NOT ADVERTISE OR REPRESENT THAT HE OR SHE IS A MIDWIFE IF
22 HE OR SHE IS NOT A LICENSED MIDWIFE.

23 (3) ~~(2)~~ The following words, titles, or letters, or a
24 combination thereof, ~~OF THEM~~, with or without qualifying words or
25 phrases, are restricted in use only to ~~those persons authorized~~
26 ~~under this part to use the terms~~ THE FOLLOWING INDIVIDUALS and
27 ONLY in a way prescribed in this part:

1 (A) REGISTERED PROFESSIONAL NURSES, "registered professional
2 nurse", "registered nurse", OR "r.n.". 7

3 (B) LICENSED PRACTICAL NURSES, "licensed practical nurse" 7
4 OR "l.p.n.". 7

5 (C) LICENSED MIDWIVES, "MIDWIFE", "CERTIFIED MIDWIFE",
6 "LICENSED MIDWIFE", OR "nurse midwife". 7

7 (D) A NURSE ANESTHETIST DESCRIBED IN SECTION 17210, "nurse
8 anesthetist". 7

9 (E) A NURSE PRACTITIONER DESCRIBED IN SECTION 17210, "nurse
10 practitioner". 7

11 (F) A TRAINED ATTENDANT DESCRIBED IN SECTION 17209, "trained
12 attendant" ~~7~~ and OR "t.a.". 7

13 Sec. 17221. (1) The Michigan board of nursing is created in
14 the department and shall consist of the following 23 voting
15 members, ~~who shall~~ EACH OF WHOM MUST meet the requirements of
16 part 161: ~~9 registered professional nurses, 1 nurse midwife, 1~~
17 ~~nurse anesthetist, 1 nurse practitioner, 3 licensed practical~~
18 ~~nurses, and 8 public members.~~

19 (A) NINE REGISTERED PROFESSIONAL NURSES. Three of the
20 registered professional nurse members ~~shall~~ MUST be engaged in
21 nursing education, 1 of whom shall be in less than a
22 baccalaureate program, 1 in a baccalaureate or higher program,
23 and 1 in a licensed practical nurse program, and each of ~~whom~~
24 ~~shall~~ THEM MUST have a master's degree from an accredited college
25 with a major in nursing. Three of the registered professional
26 nurse members ~~shall~~ MUST be engaged in nursing practice or
27 nursing administration, ~~each of whom shall~~ AND EACH OF THEM MUST

1 have a baccalaureate degree in nursing from an accredited
 2 college. Three of the registered professional nurse members ~~shall~~
 3 **MUST** be engaged in nursing practice or nursing administration,
 4 **AND** each of ~~whom shall~~ **THEM MUST** be a nonbaccalaureate registered
 5 nurse. ~~The 3 licensed practical nurse members shall have~~
 6 ~~graduated from~~

7 (B) ONE NURSE MIDWIFE. HOWEVER, BEGINNING 180 DAYS AFTER THE
 8 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 17221A,
 9 THE BOARD MEMBER DESCRIBED IN THIS SUBDIVISION MUST BE A LICENSED
 10 MIDWIFE.

11 (C) ONE NURSE ANESTHETIST, WHO HAS A SPECIALTY CERTIFICATION
 12 ISSUED UNDER SECTION 17210.

13 (D) ONE NURSE PRACTITIONER, WHO HAS A SPECIALTY
 14 CERTIFICATION ISSUED UNDER SECTION 17210.

15 (E) THREE LICENSED PRACTICAL NURSES, EACH OF WHOM IS A
 16 **GRADUATE OF** a ~~state approved~~ **STATE-APPROVED** program for the
 17 preparation of individuals to practice as licensed practical
 18 nurses. ~~The nurse midwife, the nurse anesthetist, and the nurse~~
 19 ~~practitioner shall each have a specialty certification issued by~~
 20 ~~the department in his or her respective specialty field.~~

21 (F) EIGHT PUBLIC MEMBERS.

22 (2) The terms of office of individual members of the board
 23 created under this part, except those appointed to fill
 24 vacancies, expire 4 years after appointment on June 30 of the
 25 year in which the term expires.

26 **SEC. 17221A. (1) THE MIDWIFE TASK FORCE IS CREATED. SUBJECT**
 27 **TO SUBSECTION (2), THE TASK FORCE SHALL CONSIST OF THE FOLLOWING**

1 8 MEMBERS, EACH OF WHOM MUST MEET THE REQUIREMENTS OF PART 161:

2 (A) TWO NURSE MIDWIVES. HOWEVER, BEGINNING 180 DAYS AFTER
3 THE EFFECTIVE DATE OF THIS SECTION, EACH TASK FORCE MEMBER
4 DESCRIBED IN THIS SUBDIVISION MUST BE A LICENSED MIDWIFE.

5 (B) TWO OBSTETRICIAN-GYNECOLOGISTS WHO ARE LICENSED AS
6 PHYSICIANS UNDER THIS ARTICLE.

7 (C) ONE PEDIATRICIAN WHO IS LICENSED AS A PHYSICIAN UNDER
8 THIS ARTICLE.

9 (D) ONE INDIVIDUAL WHO IS THE ADMINISTRATOR OF A HOSPITAL
10 LICENSED UNDER PART 17.

11 (E) TWO PUBLIC MEMBERS.

12 (2) THE MIDWIFE TASK FORCE CREATED IN SUBSECTION (1) SHALL
13 DO ALL OF THE FOLLOWING:

14 (A) DEVELOP AND MAKE PUBLIC GUIDELINES ON THE APPROPRIATE
15 SCOPE OF PRACTICE OF A LICENSED MIDWIFE ACCORDING TO HIS OR HER
16 EDUCATION, TRAINING, AND EXPERIENCE. ALL OF THE FOLLOWING APPLY
17 TO GUIDELINES DEVELOPED UNDER THIS SUBDIVISION:

18 (i) THE GUIDELINES ARE NONBINDING AND ADVISORY AND SHALL ONLY
19 EXPRESS THE TASK FORCE'S CRITERIA FOR DETERMINING WHETHER A
20 LICENSED MIDWIFE IS PRACTICING WITHIN HIS OR HER SCOPE OF
21 PRACTICE.

22 (ii) THE SCOPE OF PRACTICE OF A LICENSED MIDWIFE INCLUDED IN
23 THE GUIDELINES SHALL NOT INCLUDE THE PRACTICE OF MEDICINE, AS
24 DEFINED IN SECTION 17001, OR THE PRACTICE OF OSTEOPATHIC MEDICINE
25 AND SURGERY, AS DEFINED IN SECTION 17501.

26 (B) PROMULGATE RULES CONCERNING ALL OF THE FOLLOWING:

27 (i) THE APPROPRIATE EDUCATION, TRAINING, OR EXPERIENCE

1 REQUIREMENTS OF LICENSED MIDWIVES IN THIS STATE. RULES
2 PROMULGATED BY THE MIDWIFE TASK FORCE CONCERNING EDUCATION,
3 TRAINING, OR EXPERIENCE REQUIREMENTS FOR LICENSED MIDWIVES AND
4 LICENSE APPLICANTS SHALL TAKE INTO ACCOUNT NATIONALLY RECOGNIZED
5 STANDARDS FOR EDUCATION, TRAINING, AND EXPERIENCE OF LICENSED
6 MIDWIVES.

7 (ii) CRITERIA FOR THE EVALUATION OF PROGRAMS FOR THE
8 EDUCATION AND TRAINING OF LICENSED MIDWIVES FOR THE PURPOSE OF
9 DETERMINING WHETHER GRADUATES OF THE PROGRAMS HAVE THE KNOWLEDGE
10 AND SKILLS REQUISITE FOR PRACTICE AND USE OF THE TITLE "LICENSED
11 MIDWIFE" IN THIS STATE. RULES PROMULGATED BY THE MIDWIFE TASK
12 FORCE TO ESTABLISH THESE CRITERIA MUST MEET BOTH OF THE
13 FOLLOWING:

14 (A) BE SUBSTANTIALLY CONSISTENT WITH NATIONALLY RECOGNIZED
15 STANDARDS FOR THE EDUCATION AND TRAINING OF LICENSED MIDWIVES.

16 (B) REQUIRE THAT A SCHOOL OR COLLEGE BE ACCREDITED BY A
17 REGIONAL ACCREDITING AGENCY FOR COLLEGES, UNIVERSITIES, OR
18 INSTITUTIONS OF HIGHER EDUCATION THAT IS RECOGNIZED BY THE UNITED
19 STATES DEPARTMENT OF EDUCATION AND APPROVED BY THE DEPARTMENT.

20 (C) REVIEW APPLICATIONS SUBMITTED BY INDIVIDUALS SEEKING
21 LICENSURE AS LICENSED MIDWIVES AND ISSUE LICENSES TO APPLICANTS
22 WHO MEET THE REQUIREMENTS OF SECTION 17210A AND THE REQUIREMENTS
23 OF THE RULES PROMULGATED UNDER THIS PART CONCERNING THE LICENSURE
24 OF LICENSED MIDWIVES.

25 (D) PROMULGATE RULES THAT REQUIRE A LICENSED MIDWIFE TO
26 REPORT ANY INCIDENT OF FETAL DEATH OR SERIOUS DISABILITY TO THE
27 TASK FORCE, REQUIRE PEER REVIEW OF EACH INCIDENT, PROVIDE FOR THE

1 PREPARATION OF AN ANNUAL REPORT OF THOSE INCIDENTS, AND FOR THE
2 SUBMISSION OF THAT REPORT BY THE TASK FORCE TO THE GOVERNOR, THE
3 SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE HOUSE MINORITY
4 LEADER, THE SENATE MAJORITY LEADER, AND THE SENATE MINORITY
5 LEADER AND POSTING OF THE REPORT ON THE DEPARTMENT'S WEBSITE.

6 (E) NOT LATER THAN JUNE 1 OF EACH YEAR, BEGINNING IN THE
7 FIRST CALENDAR YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION,
8 PUBLISH A LIST OF BEST PRACTICES INVOLVING COORDINATION OF CARE
9 BETWEEN FREESTANDING BIRTHING CENTERS AND HOSPITALS AND
10 PHYSICIANS. AS USED IN THIS SUBDIVISION:

11 (i) "FREESTANDING BIRTHING CENTER" MEANS THAT TERM AS DEFINED
12 IN SECTION 20851.

13 (ii) "HOSPITAL" MEANS THAT TERM AS DEFINED IN SECTION 20106.

14 (iii) "PHYSICIAN" MEANS THAT TERM AS DEFINED IN SECTIONS 17001
15 AND 17501.

16 (F) PROMULGATE RULES TO ENSURE CONTINUING COMPLIANCE BY
17 LICENSED MIDWIVES WITH THE BEST PRACTICES IDENTIFIED UNDER
18 SUBDIVISION (E).

19 Sec. 20104. (1) "Certification" means the issuance of a
20 document by the department to a health facility or agency
21 attesting to the fact that the facility or agency meets both of
22 the following:

23 (a) It complies with applicable statutory and regulatory
24 requirements and standards.

25 (b) It is eligible to participate as a provider of care and
26 services in a specific federal or state health program.

27 (2) "Clinical laboratory" means a facility patronized by, or

1 at the direction of, a physician, health officer, or other person
2 authorized by law to obtain information for the diagnosis,
3 prevention, or treatment of disease or the assessment of a
4 medical condition by the microbiological, serological,
5 histological, hematological, immunohematological, biophysical,
6 cytological, pathological, or biochemical examination of
7 materials derived from the human body, except as provided in
8 section 20507.

9 (3) "Consumer" means a person who is not a provider of
10 health care as defined in ~~section 1531(3) of title 15 of the~~
11 ~~public health service act,~~ 42 USC 300n.

12 (4) "County medical care facility" means a nursing care
13 facility, other than a hospital long-term care unit, ~~which~~ **THAT**
14 provides organized nursing care and medical treatment to 7 or
15 more unrelated individuals who are suffering or recovering from
16 illness, injury, or infirmity and ~~which~~ **THAT** is owned by a county
17 or counties.

18 (5) "Direct access" means access to a patient or resident or
19 to a patient's or resident's property, financial information,
20 medical records, treatment information, or any other identifying
21 information.

22 (6) **"FREESTANDING BIRTHING CENTER" MEANS THAT TERM AS**
23 **DEFINED IN SECTION 20851.**

24 (7) ~~(6)~~ "Freestanding surgical outpatient facility" means a
25 facility, other than the office of a physician, dentist,
26 podiatrist, or other private practice office, offering a surgical
27 procedure and related care that in the opinion of the attending

1 physician can be safely performed without requiring overnight
 2 inpatient hospital care. It does not include a surgical
 3 outpatient facility owned by and operated as part of a hospital.

4 (8) ~~(7)~~—"Good moral character" means that term as defined in
 5 section 1 of 1974 PA 381, MCL 338.41.

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

8 (a) An ambulance operation, aircraft transport operation,
 9 nontransport prehospital life support operation, or medical first
 10 response service.

11 (b) A clinical laboratory.

12 (c) A county medical care facility.

13 **(D) A FREESTANDING BIRTHING CENTER.**

14 **(E)** ~~(d)~~—A freestanding surgical outpatient facility.

15 **(F)** ~~(e)~~—A health maintenance organization.

16 **(G)** ~~(f)~~—A home for the aged.

17 **(H)** ~~(g)~~—A hospital.

18 **(I)** ~~(h)~~—A nursing home.

19 **(J)** ~~(i)~~—A hospice.

20 **(K)** ~~(j)~~—A hospice residence.

21 **(L)** ~~(k)~~—A facility or agency listed in subdivisions (a) to
 22 ~~(h)~~—**(I)** located in a university, college, or other educational
 23 institution.

24 (2) "Health maintenance organization" means that term as
 25 defined in section 3501 of the insurance code of 1956, 1956 PA
 26 218, MCL 500.3501.

27 (3) "Home for the aged" means a supervised personal care

1 facility, other than a hotel, adult foster care facility,
2 hospital, nursing home, or county medical care facility that
3 provides room, board, and supervised personal care to 21 or more
4 unrelated, nontransient, individuals 60 years of age or older.
5 Home for the aged includes a supervised personal care facility
6 for 20 or fewer individuals 60 years of age or older if the
7 facility is operated in conjunction with and as a distinct part
8 of a licensed nursing home.

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

13 (5) "Hospital" means a facility offering inpatient,
14 overnight care, and services for observation, diagnosis, and
15 active treatment of an individual with a medical, surgical,
16 obstetric, chronic, or rehabilitative condition requiring the
17 daily direction or supervision of a physician. Hospital does not
18 include a mental health hospital licensed or operated by the
19 department of community health or a hospital operated by the
20 department of corrections.

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

26 Sec. 20161. (1) The department shall assess fees and other
27 assessments for health facility and agency licenses and

1 certificates of need on an annual basis as provided in this
2 article. Except as otherwise provided in this article, fees and
3 assessments shall be paid in accordance with the following
4 schedule:

- 5 (a) Freestanding surgical
6 outpatient facilities.....\$238.00 per facility.
- 7 (b) Hospitals.....\$8.28 per licensed bed.
- 8 (c) Nursing homes, county
9 medical care facilities, and
10 hospital long-term care units.....\$2.20 per licensed bed.
- 11 (d) Homes for the aged.....\$6.27 per licensed bed.
- 12 (e) Clinical laboratories.....\$475.00 per laboratory.
- 13 (f) Hospice residences.....\$200.00 per license
14 survey; and \$20.00 per
15 licensed bed.
- 16 (g) Subject to subsection
17 (13), quality assurance assessment
18 for nursing homes and hospital
19 long-term care units.....an amount resulting
20 in not more than 6%
21 of total industry
22 revenues.
- 23 (h) Subject to subsection
24 (14), quality assurance assessment
25 for hospitals.....at a fixed or variable
26 rate that generates
27 funds not more than the
28 maximum allowable under
29 the federal matching

1 requirements, after
2 consideration for the
3 amounts in subsection
4 (14) (a) and (i).

5 (I) FREESTANDING BIRTHING
6 CENTERS.....\$238.00 PER FACILITY.

7 (2) If a hospital requests the department to conduct a
8 certification survey for purposes of title XVIII or title XIX of
9 the social security act, the hospital shall pay a license fee
10 surcharge of \$23.00 per bed. As used in this subsection, "title
11 XVIII" and "title XIX" mean those terms as defined in section
12 20155.

13 (3) The base fee for a certificate of need is \$1,500.00 for
14 each application. For a project requiring a projected capital
15 expenditure of more than \$500,000.00 but less than \$4,000,000.00,
16 an additional fee of \$4,000.00 shall be added to the base fee.
17 For a project requiring a projected capital expenditure of
18 \$4,000,000.00 or more, an additional fee of \$7,000.00 shall be
19 added to the base fee. The department of community health shall
20 use the fees collected under this subsection only to fund the
21 certificate of need program. Funds remaining in the certificate
22 of need program at the end of the fiscal year shall not lapse to
23 the general fund but shall remain available to fund the
24 certificate of need program in subsequent years.

25 (4) If licensure is for more than 1 year, the fees described
26 in subsection (1) are multiplied by the number of years for which
27 the license is issued, and the total amount of the fees shall be

1 collected in the year in which the license is issued.

2 (5) Fees described in this section are payable to the
3 department at the time an application for a license, permit, or
4 certificate is submitted. If an application for a license,
5 permit, or certificate is denied or if a license, permit, or
6 certificate is revoked before its expiration date, the department
7 shall not refund fees paid to the department.

8 (6) The fee for a provisional license or temporary permit is
9 the same as for a license. A license may be issued at the
10 expiration date of a temporary permit without an additional fee
11 for the balance of the period for which the fee was paid if the
12 requirements for licensure are met.

13 (7) The department may charge a fee to recover the cost of
14 purchase or production and distribution of proficiency evaluation
15 samples that are supplied to clinical laboratories pursuant to
16 section 20521(3).

17 (8) In addition to the fees imposed under subsection (1), a
18 clinical laboratory shall submit a fee of \$25.00 to the
19 department for each reissuance during the licensure period of the
20 clinical laboratory's license.

21 (9) The cost of licensure activities shall be supported by
22 license fees.

23 (10) The application fee for a waiver under section 21564 is
24 \$200.00 plus \$40.00 per hour for the professional services and
25 travel expenses directly related to processing the application.
26 The travel expenses shall be calculated in accordance with the
27 state standardized travel regulations of the department of

1 technology, management, and budget in effect at the time of the
2 travel.

3 (11) An applicant for licensure or renewal of licensure
4 under part 209 shall pay the applicable fees set forth in part
5 209.

6 (12) Except as otherwise provided in this section, the fees
7 and assessments collected under this section shall be deposited
8 in the state treasury, to the credit of the general fund. The
9 department may use the unreserved fund balance in fees and
10 assessments for the criminal history check program required under
11 this article.

12 (13) The quality assurance assessment collected under
13 subsection (1)(g) and all federal matching funds attributed to
14 that assessment shall be used only for the following purposes and
15 under the following specific circumstances:

16 (a) The quality assurance assessment and all federal
17 matching funds attributed to that assessment shall be used to
18 finance medicaid nursing home reimbursement payments. Only
19 licensed nursing homes and hospital long-term care units that are
20 assessed the quality assurance assessment and participate in the
21 medicaid program are eligible for increased per diem medicaid
22 reimbursement rates under this subdivision. A nursing home or
23 long-term care unit that is assessed the quality assurance
24 assessment and that does not pay the assessment required under
25 subsection (1)(g) in accordance with subdivision (c)(i) or in
26 accordance with a written payment agreement with the state shall
27 not receive the increased per diem medicaid reimbursement rates

1 under this subdivision until all of its outstanding quality
2 assurance assessments and any penalties assessed pursuant to
3 subdivision (f) have been paid in full. Nothing in this
4 subdivision shall be construed to authorize or require the
5 department to overspend tax revenue in violation of the
6 management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

7 (b) Except as otherwise provided under subdivision (c),
8 beginning October 1, 2005, the quality assurance assessment is
9 based on the total number of patient days of care each nursing
10 home and hospital long-term care unit provided to nonmedicare
11 patients within the immediately preceding year and shall be
12 assessed at a uniform rate on October 1, 2005 and subsequently on
13 October 1 of each following year, and is payable on a quarterly
14 basis, the first payment due 90 days after the date the
15 assessment is assessed.

16 (c) Within 30 days after September 30, 2005, the department
17 shall submit an application to the federal centers for medicare
18 and medicaid services to request a waiver pursuant to 42 CFR
19 433.68(e) to implement this subdivision as follows:

20 (i) If the waiver is approved, the quality assurance
21 assessment rate for a nursing home or hospital long-term care
22 unit with less than 40 licensed beds or with the maximum number,
23 or more than the maximum number, of licensed beds necessary to
24 secure federal approval of the application is \$2.00 per
25 nonmedicare patient day of care provided within the immediately
26 preceding year or a rate as otherwise altered on the application
27 for the waiver to obtain federal approval. If the waiver is

1 approved, for all other nursing homes and long-term care units
2 the quality assurance assessment rate is to be calculated by
3 dividing the total statewide maximum allowable assessment
4 permitted under subsection (1)(g) less the total amount to be
5 paid by the nursing homes and long-term care units with less than
6 40 or with the maximum number, or more than the maximum number,
7 of licensed beds necessary to secure federal approval of the
8 application by the total number of nonmedicare patient days of
9 care provided within the immediately preceding year by those
10 nursing homes and long-term care units with more than 39, but
11 less than the maximum number of licensed beds necessary to secure
12 federal approval. The quality assurance assessment, as provided
13 under this subparagraph, shall be assessed in the first quarter
14 after federal approval of the waiver and shall be subsequently
15 assessed on October 1 of each following year, and is payable on a
16 quarterly basis, the first payment due 90 days after the date the
17 assessment is assessed.

18 (ii) If the waiver is approved, continuing care retirement
19 centers are exempt from the quality assurance assessment if the
20 continuing care retirement center requires each center resident
21 to provide an initial life interest payment of \$150,000.00, on
22 average, per resident to ensure payment for that resident's
23 residency and services and the continuing care retirement center
24 utilizes all of the initial life interest payment before the
25 resident becomes eligible for medical assistance under the
26 state's medicaid plan. As used in this subparagraph, "continuing
27 care retirement center" means a nursing care facility that

1 provides independent living services, assisted living services,
2 and nursing care and medical treatment services, in a campus-like
3 setting that has shared facilities or common areas, or both.

4 (d) Beginning May 10, 2002, the department of community
5 health shall increase the per diem nursing home medicaid
6 reimbursement rates for the balance of that year. For each
7 subsequent year in which the quality assurance assessment is
8 assessed and collected, the department of community health shall
9 maintain the medicaid nursing home reimbursement payment increase
10 financed by the quality assurance assessment.

11 (e) The department of community health shall implement this
12 section in a manner that complies with federal requirements
13 necessary to assure that the quality assurance assessment
14 qualifies for federal matching funds.

15 (f) If a nursing home or a hospital long-term care unit
16 fails to pay the assessment required by subsection (1)(g), the
17 department of community health may assess the nursing home or
18 hospital long-term care unit a penalty of 5% of the assessment
19 for each month that the assessment and penalty are not paid up to
20 a maximum of 50% of the assessment. The department of community
21 health may also refer for collection to the department of
22 treasury past due amounts consistent with section 13 of 1941 PA
23 122, MCL 205.13.

24 (g) The medicaid nursing home quality assurance assessment
25 fund is established in the state treasury. The department of
26 community health shall deposit the revenue raised through the
27 quality assurance assessment with the state treasurer for deposit

1 in the medicaid nursing home quality assurance assessment fund.

2 (h) The department of community health shall not implement
3 this subsection in a manner that conflicts with 42 USC 1396b(w).

4 (i) The quality assurance assessment collected under
5 subsection (1)(g) shall be prorated on a quarterly basis for any
6 licensed beds added to or subtracted from a nursing home or
7 hospital long-term care unit since the immediately preceding July
8 1. Any adjustments in payments are due on the next quarterly
9 installment due date.

10 (j) In each fiscal year governed by this subsection,
11 medicaid reimbursement rates shall not be reduced below the
12 medicaid reimbursement rates in effect on April 1, 2002 as a
13 direct result of the quality assurance assessment collected under
14 subsection (1)(g).

15 (k) The state retention amount of the quality assurance
16 assessment collected pursuant to subsection (1)(g) shall be equal
17 to 13.2% of the federal funds generated by the nursing homes and
18 hospital long-term care units quality assurance assessment,
19 including the state retention amount. The state retention amount
20 shall be appropriated each fiscal year to the department of
21 community health to support medicaid expenditures for long-term
22 care services. These funds shall offset an identical amount of
23 general fund/general purpose revenue originally appropriated for
24 that purpose.

25 (l) Beginning October 1, 2015, the department shall no longer
26 assess or collect the quality assurance assessment or apply for
27 federal matching funds. The quality assurance assessment

1 collected under subsection (1)(g) shall no longer be assessed or
2 collected after September 30, 2011, in the event that the quality
3 assurance assessment is not eligible for federal matching funds.
4 Any portion of the quality assurance assessment collected from a
5 nursing home or hospital long-term care unit that is not eligible
6 for federal matching funds shall be returned to the nursing home
7 or hospital long-term care unit.

8 (14) The quality assurance dedication is an earmarked
9 assessment collected under subsection (1)(h). That assessment and
10 all federal matching funds attributed to that assessment shall be
11 used only for the following purpose and under the following
12 specific circumstances:

13 (a) To maintain the increased medicaid reimbursement rate
14 increases as provided for in subdivision (c).

15 (b) The quality assurance assessment shall be assessed on
16 all net patient revenue, before deduction of expenses, less
17 medicare net revenue, as reported in the most recently available
18 medicare cost report and is payable on a quarterly basis, the
19 first payment due 90 days after the date the assessment is
20 assessed. As used in this subdivision, "medicare net revenue"
21 includes medicare payments and amounts collected for coinsurance
22 and deductibles.

23 (c) Beginning October 1, 2002, the department of community
24 health shall increase the hospital medicaid reimbursement rates
25 for the balance of that year. For each subsequent year in which
26 the quality assurance assessment is assessed and collected, the
27 department of community health shall maintain the hospital

1 medicaid reimbursement rate increase financed by the quality
2 assurance assessments.

3 (d) The department of community health shall implement this
4 section in a manner that complies with federal requirements
5 necessary to assure that the quality assurance assessment
6 qualifies for federal matching funds.

7 (e) If a hospital fails to pay the assessment required by
8 subsection (1)(h), the department of community health may assess
9 the hospital a penalty of 5% of the assessment for each month
10 that the assessment and penalty are not paid up to a maximum of
11 50% of the assessment. The department of community health may
12 also refer for collection to the department of treasury past due
13 amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

14 (f) The hospital quality assurance assessment fund is
15 established in the state treasury. The department of community
16 health shall deposit the revenue raised through the quality
17 assurance assessment with the state treasurer for deposit in the
18 hospital quality assurance assessment fund.

19 (g) In each fiscal year governed by this subsection, the
20 quality assurance assessment shall only be collected and expended
21 if medicaid hospital inpatient DRG and outpatient reimbursement
22 rates and disproportionate share hospital and graduate medical
23 education payments are not below the level of rates and payments
24 in effect on April 1, 2002 as a direct result of the quality
25 assurance assessment collected under subsection (1)(h), except as
26 provided in subdivision (h).

27 (h) The quality assurance assessment collected under

1 subsection (1)(h) shall no longer be assessed or collected after
2 September 30, 2011 in the event that the quality assurance
3 assessment is not eligible for federal matching funds. Any
4 portion of the quality assurance assessment collected from a
5 hospital that is not eligible for federal matching funds shall be
6 returned to the hospital.

7 (i) The state retention amount of the quality assurance
8 assessment collected pursuant to subsection (1)(h) shall be equal
9 to 13.2% of the federal funds generated by the hospital quality
10 assurance assessment, including the state retention amount. The
11 state retention percentage shall be applied proportionately to
12 each hospital quality assurance assessment program to determine
13 the retention amount for each program. The state retention amount
14 shall be appropriated each fiscal year to the department of
15 community health to support medicaid expenditures for hospital
16 services and therapy. These funds shall offset an identical
17 amount of general fund/general purpose revenue originally
18 appropriated for that purpose.

19 (15) The quality assurance assessment provided for under
20 this section is a tax that is levied on a health facility or
21 agency.

22 (16) As used in this section, "medicaid" means that term as
23 defined in section 22207.

24 **PART 208A. FREESTANDING BIRTHING CENTERS**

25 **SEC. 20851. (1) AS USED IN THIS PART:**

26 **(A) "FREESTANDING BIRTHING CENTER" MEANS A FACILITY WHERE**
27 **LICENSED MIDWIVES ENGAGE IN OR SEEK TO ENGAGE IN THE PRACTICE OF**

1 NURSING AS A LICENSED MIDWIFE. THE TERM DOES NOT INCLUDE ANY OF
2 THE FOLLOWING:

3 (i) A HOSPITAL LICENSED UNDER THIS ARTICLE.

4 (ii) THE OFFICE OF A PHYSICIAN LICENSED UNDER PART 170 OR 175
5 OR A GROUP OF PHYSICIANS LICENSED UNDER PART 170 OR 175.

6 (B) "LICENSED MIDWIFE" MEANS THAT TERM AS DEFINED IN SECTION
7 17201.

8 (C) "PRACTICE OF NURSING AS A LICENSED MIDWIFE" MEANS THAT
9 TERM AS DEFINED IN SECTION 17201.

10 (2) IN ADDITION TO THE DEFINITIONS IN THIS SECTION, ARTICLE
11 1 CONTAINS GENERAL DEFINITIONS AND PRINCIPLES OF CONSTRUCTION
12 APPLICABLE TO ALL ARTICLES IN THIS CODE AND PART 201 CONTAINS
13 DEFINITIONS APPLICABLE TO THIS PART.

14 SEC. 20853. (1) A FREESTANDING BIRTHING CENTER SHALL NOT
15 PROVIDE HEALTH SERVICES WITHOUT A LICENSE UNDER THIS ARTICLE.

16 (2) A FREESTANDING BIRTHING CENTER SHALL NOT IN ITS
17 ADVERTISING USE THE TERM "PRACTICE OF MEDICINE" OR ANY TERM OR
18 STATEMENT THAT WOULD LEAD A REASONABLE PERSON, IN THE TOTALITY OF
19 CIRCUMSTANCES, TO BELIEVE THAT THE BIRTHING CENTER IS A HOSPITAL
20 OR THAT A CLIENT OF THE BIRTHING CENTER WILL BE UNDER THE DIRECT
21 CARE OF A PHYSICIAN OR PHYSICIANS.

22 (3) A PERSON SHALL NOT USE THE TERM "FREESTANDING BIRTHING
23 CENTER" OR A SIMILAR TERM OR ABBREVIATION TO DESCRIBE OR REFER TO
24 A HEALTH FACILITY OR AGENCY UNLESS IT IS LICENSED BY THE
25 DEPARTMENT UNDER THIS ARTICLE.

26 SEC. 20855. (1) THE OWNER, OPERATOR, AND GOVERNING BODY OF A
27 FREESTANDING BIRTHING CENTER LICENSED UNDER THIS ARTICLE ARE

1 RESPONSIBLE FOR ALL PHASES OF THE OPERATION OF THE FACILITY,
2 SELECTION OF MEDICAL STAFF, AND QUALITY OF CARE RENDERED IN THE
3 FACILITY.

4 (2) THE OWNER, OPERATOR, AND GOVERNING BODY OF A
5 FREESTANDING BIRTHING CENTER LICENSED UNDER THIS ARTICLE SHALL DO
6 ALL OF THE FOLLOWING:

7 (A) COOPERATE WITH THE DEPARTMENT IN THE ENFORCEMENT OF THIS
8 ARTICLE AND ENSURE THAT THE PERSONNEL WORKING IN THE FACILITY AND
9 FOR WHOM A STATE LICENSE OR REGISTRATION IS REQUIRED ARE
10 CURRENTLY LICENSED OR REGISTERED.

11 (B) PRESENT PROOF SATISFACTORY TO THE DEPARTMENT THAT THE
12 FACILITY HAS A CONTRACTUAL RELATIONSHIP WITH AN OBSTETRICIAN-
13 GYNECOLOGIST WHO IS LICENSED AS A PHYSICIAN UNDER ARTICLE 15, A
14 GROUP OF PHYSICIANS LICENSED UNDER ARTICLE 15, OR A HOSPITAL
15 LICENSED UNDER ARTICLE 17, THAT AGREES TO PROVIDE CONSULTING
16 SERVICES DURING DELIVERIES.

17 (C) HAVE IN PLACE AND ENFORCE A POLICY THAT REQUIRES THE
18 FREESTANDING BIRTHING CENTER TO TRANSFER A CLIENT TO A HOSPITAL
19 FOR THE DELIVERY OF A CHILD IF ANY OF THE FOLLOWING CONDITIONS OR
20 CIRCUMSTANCES ARE PRESENT OR OCCUR:

21 (i) ANY CONDITION OF THE MOTHER OR FETUS THAT CREATES A
22 SUBSTANTIAL RISK THAT THE PREGNANCY IS NOT A LOW-RISK PREGNANCY.

23 (ii) PRETERM LABOR OR PRETERM RUPTURE OF MEMBRANES.

24 (iii) ABNORMAL FETAL HEART RATE.

25 (iv) BREECH OR OTHER MALPRESENTATION OF THE FETUS.

26 (v) PREMATURE LABOR.

27 (vi) DELIVERY IS EXCESSIVELY OVERDUE.

1 (vii) LOW OR HIGH AMNIOTIC FLUID VOLUME.

2 (viii) THE MOTHER HAS DIABETES, HEART DISEASE, A BLOOD
3 DISEASE, OR ANY OTHER SIGNIFICANT MEDICAL CONDITION AND THE
4 TREATMENT OF THE CONDITION IS OUTSIDE OF THE SCOPE OF THE
5 PRACTICE OF NURSING AS A LICENSED MIDWIFE.

6 (ix) ANY OTHER CONDITION OR CIRCUMSTANCE THAT INDICATES TO A
7 REASONABLE MEDICAL PROFESSIONAL THAT A PHYSICIAN SHOULD ATTEND
8 THE BIRTH.

9 (x) ANY OTHER CONDITION OR CIRCUMSTANCE THAT THE MIDWIFE
10 TASK FORCE ESTABLISHES BY RULE AS A CONDITION OR CIRCUMSTANCE
11 THAT, IF IT IS PRESENT OR OCCURS, SHOULD RESULT IN THE TRANSFER
12 OF THE CLIENT TO A HOSPITAL FOR THE DELIVERY OF THE CHILD.

13 SEC. 20857. A FREESTANDING BIRTHING CENTER MUST MEET ALL OF
14 THE FOLLOWING:

15 (A) BE ORGANIZED, ADMINISTERED, STAFFED, AND EQUIPPED TO
16 PROVIDE ON A REGULAR AND SCHEDULED BASIS ALL REASONABLY
17 FORESEEABLE PROCEDURES OUTSIDE A HOSPITAL THAT IN A PHYSICIAN'S
18 JUDGMENT MAY BE SAFELY PERFORMED ON A BASIS OTHER THAN ON AN
19 INPATIENT BASIS.

20 (B) HAVE THE TECHNICAL AND SUPPORTIVE PERSONNEL; THE
21 TECHNICAL, DIAGNOSTIC, AND TREATMENT SERVICES; AND THE EQUIPMENT
22 NECESSARY TO ASSURE THE SAFE PERFORMANCE OF CARE AND SERVICES
23 THAT ARE WITHIN THE SCOPE OF THE PRACTICE OF NURSING AS A
24 LICENSED MIDWIFE UNDERTAKEN IN THE FACILITY.

25 (C) HAVE A WRITTEN AGREEMENT WITH A NEARBY LICENSED HOSPITAL
26 TO PROVIDE FOR THE ROUTINE REFERRAL OF CLIENTS TO THE HOSPITAL
27 AND FOR THE EMERGENCY ADMISSION OF POSTSURGICAL PATIENTS WHO FOR

1 UNPREDICTABLE REASONS MAY REQUIRE HOSPITAL ADMISSION AND CARE.

2 (D) ASSURE THAT A CLINICAL RECORD IS ESTABLISHED FOR EACH
3 PATIENT, INCLUDING A HISTORY, PHYSICAL EXAMINATION, JUSTIFICATION
4 FOR TREATMENT PLANNED AND RENDERED, TESTS AND EXAMINATIONS
5 PERFORMED, OBSERVATIONS MADE, AND TREATMENT PROVIDED.

6 SEC. 20859. WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF THIS
7 PART, THE DEPARTMENT SHALL SUBMIT FOR A PUBLIC HEARING PROPOSED
8 RULES NECESSARY TO IMPLEMENT AND ADMINISTER THIS PART.