

HOUSE BILL No. 4467

March 30, 2017, Introduced by Reps. Theis, Runestad, Crawford, Lucido, Hornberger, Griffin, Farrington, Hernandez, Allor, Hoitenga, Kahle, Rendon, Cox, Calley, LaSata, Miller, Brann, Glenn, Chatfield, Barrett, Reilly, Howrylak, Alexander, Noble, Kelly, Lower, Graves, Wentworth, Albert, Tedder, Lilly, VanderWall, Whiteford and Sheppard and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16221, 16299, 17015, and 17515 (MCL 333.16221, 333.16299, 333.17015, and 333.17515), section 16221 as amended by 2016 PA 379 and sections 16299, 17015, and 17515 as amended by 2012 PA 499, and by adding section 17015b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16221. The department shall investigate any allegation
2 that 1 or more of the grounds for disciplinary subcommittee action
3 under this section exist, and may investigate activities related to
4 the practice of a health profession by a licensee, a registrant, or
5 an applicant for licensure or registration. The department may hold
6 hearings, administer oaths, and order the taking of relevant

1 testimony. After its investigation, the department shall provide a
2 copy of the administrative complaint to the appropriate
3 disciplinary subcommittee. The disciplinary subcommittee shall
4 proceed under section 16226 if it finds that 1 or more of the
5 following grounds exist:

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

13 (b) Personal disqualifications, consisting of 1 or more of the
14 following:

15 (i) Incompetence.

16 (ii) Subject to sections 16165 to 16170a, substance use
17 disorder as defined in section 100d of the mental health code, 1974
18 PA 258, MCL 330.1100d.

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

22 (iv) Declaration of mental incompetence by a court of
23 competent jurisdiction.

24 (v) Conviction of a misdemeanor punishable by imprisonment for
25 a maximum term of 2 years; conviction of a misdemeanor involving
26 the illegal delivery, possession, or use of a controlled substance;
27 or conviction of any felony other than a felony listed or described

1 in another subparagraph of this subdivision. A certified copy of
2 the court record is conclusive evidence of the conviction.

3 (vi) Lack of good moral character.

4 (vii) Conviction of a criminal offense under section 520e or
5 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and
6 750.520g. A certified copy of the court record is conclusive
7 evidence of the conviction.

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

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

15 (x) Final adverse administrative action by a licensure,
16 registration, disciplinary, or certification board involving the
17 holder of, or an applicant for, a license or registration regulated
18 by another state or a territory of the United States, by the United
19 States military, by the federal government, or by another country.
20 A certified copy of the record of the board is conclusive evidence
21 of the final action.

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

26 (xii) Conviction of a violation of section 430 of the Michigan
27 penal code, 1931 PA 328, MCL 750.430. A certified copy of the court

1 record is conclusive evidence of the conviction.

2 (xiii) Conviction of a criminal offense under section 83, 84,
3 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal
4 code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321,
5 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the
6 court record is conclusive evidence of the conviction.

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

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

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

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

13 (iv) Obtaining, possessing, or attempting to obtain or possess
14 a controlled substance as defined in section 7104 or a drug as
15 defined in section 7105 without lawful authority; or selling,
16 prescribing, giving away, or administering drugs for other than
17 lawful diagnostic or therapeutic purposes.

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

21 (i) False or misleading advertising.

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

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

27 (e) Except as otherwise specifically provided in this section,

1 unprofessional conduct, consisting of 1 or more of the following:

2 (i) Misrepresentation to a consumer or patient or in obtaining
3 or attempting to obtain third party reimbursement in the course of
4 professional practice.

5 (ii) Betrayal of a professional confidence.

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

8 (iv) Either of the following:

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

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

1 department decides that the revision does both of those things, the
2 department may promulgate rules to incorporate the revision by
3 reference. If the department does promulgate rules to incorporate
4 the revision by reference, the department shall not make any
5 changes to the revision. As used in this sub-subparagraph,
6 "designated health service" means that term as defined in 42 USC
7 1395nn and the regulations promulgated under that section and
8 "physician" means that term as defined in sections 17001 and 17501.

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

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

1 treatment, or comfort.

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

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

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

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

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

14 (j) Failure to pay an installment of an assessment levied
15 under the insurance code of 1956, 1956 PA 218, MCL 500.100 to
16 500.8302, within 60 days after notice by the appropriate board.

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

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

20 (m) A violation of section 17015, 17015a, **17015B**, 17017,
21 17515, or 17517.

22 (n) A violation of section 17016 or 17516.

23 (o) Failure to comply with section 9206(3).

24 (p) A violation of section 5654 or 5655.

25 (q) A violation of section 16274.

26 (r) A violation of section 17020 or 17520.

27 (s) A violation of the medical records access act, 2004 PA 47,

1 MCL 333.26261 to 333.26271.

2 (t) A violation of section 17764(2).

3 (u) Failure to comply with the terms of a practice agreement
4 described in section 17047(2)(a) or (b), 17547(2)(a) or (b), or
5 18047(2)(a) or (b).

6 Sec. 16299. (1) Except as otherwise provided in subsection
7 (2), a person who violates or aids or abets another in a violation
8 of this article, other than those matters described in sections
9 16294 and 16296, is guilty of a misdemeanor punishable as follows:

10 (a) For the first offense, by imprisonment for not more than
11 90 days, or a fine of not more than \$100.00, or both.

12 (b) For the second or subsequent offense, by imprisonment for
13 not less than 90 days nor more than 6 months, or a fine of not less
14 than \$200.00 nor more than \$500.00, or both.

15 (2) Subsection (1) does not apply to a violation of section
16 17015, 17015a, **17015B**, 17017, 17515, or 17517.

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

21 (2) For purposes of this section and ~~section~~**SECTIONS** 17015a
22 **AND 17015B:**

23 (a) "Abortion" means the intentional use of an instrument,
24 drug, or other substance or device to terminate a woman's pregnancy
25 for a purpose other than to increase the probability of a live
26 birth, to preserve the life or health of the child after live
27 birth, or to remove a fetus that has died as a result of natural

1 causes, accidental trauma, or a criminal assault on the pregnant
2 woman. Abortion does not include the use or prescription of a drug
3 or device intended as a contraceptive **OR ANY MEDICAL TREATMENT OF A**
4 **WOMAN WHO IS EXPERIENCING A MISCARRIAGE OR HAS BEEN DIAGNOSED WITH**
5 **AN EXTRAUTERINE PREGNANCY.**

6 (b) "Coercion to abort" means an act committed with the intent
7 to coerce an individual to have an abortion, ~~which act is~~ **AS**
8 prohibited by section 213a of the Michigan penal code, 1931 PA 328,
9 MCL 750.213a.

10 (c) "Domestic violence" means that term as defined in section
11 1 of 1978 PA 389, MCL 400.1501.

12 (d) "Fetus" means an individual organism of the species ~~homo~~
13 **HOMO** sapiens in utero.

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

18 (f) "Medical emergency" means ~~that~~ **A** condition ~~which,~~ **THAT**, on
19 the basis of the physician's ~~good faith~~ **GOOD-FAITH** clinical
20 judgment, so complicates the medical condition of a pregnant woman
21 as to necessitate the immediate abortion of her pregnancy to avert
22 her death or for which a delay will create serious risk of
23 substantial and irreversible impairment of a major bodily function.

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

1 (h) "Qualified person assisting the physician" means another
2 physician or a physician's assistant licensed under this part or
3 part 175, a fully licensed or limited licensed psychologist
4 licensed under part 182, a professional counselor licensed under
5 part 181, a registered professional nurse or a licensed practical
6 nurse licensed under part 172, or a social worker licensed under
7 part 185.

8 (i) "Probable gestational age of the fetus" means the
9 gestational age of the fetus at the time an abortion is planned to
10 be performed.

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

17 (i) In person.

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

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

21 (iv) By facsimile transmission.

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

26 (a) Confirm that, according to the best medical judgment of a
27 physician, the patient is pregnant, and determine the probable

1 gestational age of the fetus.

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

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

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

8 (iii) Information about how to obtain pregnancy prevention
9 information through the department of ~~community health~~ **AND HUMAN**
10 **SERVICES**.

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

23 (d) Provide the patient with a physical copy of a medically
24 accurate depiction, illustration, or photograph and description of
25 a fetus supplied by the department of ~~community health pursuant to~~
26 **HEALTH AND HUMAN SERVICES UNDER** subsection (11)(a) at the
27 gestational age nearest the probable gestational age of the

1 patient's fetus.

2 (e) Provide the patient with a physical copy of the prenatal
3 care and parenting information pamphlet distributed by the
4 department of ~~community~~health **AND HUMAN SERVICES** under section
5 9161.

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

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

19 (5) The requirements of subsection (3) (c) ~~through~~**TO** (f) may
20 be fulfilled by a patient accessing the internet website that is
21 maintained and operated by the department **OF HEALTH AND HUMAN**
22 **SERVICES** under subsection (11) (g) and receiving a printed, valid
23 confirmation form from the website that the patient has reviewed
24 the information required in subsection (3) (c) ~~through~~**TO** (f) at
25 least 24 hours before an abortion being performed on the patient.
26 The website ~~shall~~**MUST** not require any information be supplied by
27 the patient. The department **OF HEALTH AND HUMAN SERVICES** shall not

1 track, compile, or otherwise keep a record of information that
2 would identify a patient who accesses this website. The patient
3 shall supply the valid confirmation form to the physician or
4 qualified person assisting the physician to be included in the
5 patient's medical record to comply with this subsection.

6 (6) Subject to subsection (10), before obtaining the patient's
7 signature on the acknowledgment and consent form **DESCRIBED IN**
8 **SUBSECTION (11) (C)**, a physician personally and in the presence of
9 the patient ~~shall~~**MUST** do all of the following:

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

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

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

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

26 (7) To protect a patient's privacy, the information set forth
27 in subsection (3) and subsection (6) ~~shall~~**MUST** not be disclosed to

1 the patient in the presence of another patient.

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

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

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

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

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

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

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

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

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

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

23 (a) Produce medically accurate depictions, illustrations, or
24 photographs of the development of a human fetus that indicate by
25 scale the actual size of the fetus at 2-week intervals from the
26 fourth week through the twenty-eighth week of gestation. Each
27 depiction, illustration, or photograph ~~shall~~**MUST** be accompanied by

1 a printed description, in nontechnical English, Arabic, and
2 Spanish, of the probable anatomical and physiological
3 characteristics of the fetus at that particular state of
4 gestational development.

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

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

12 (ii) Identify the physical complications that have been
13 associated with each procedure described in subparagraph (i) and
14 with live birth, as determined by the department **OF HEALTH AND**
15 **HUMAN SERVICES**. In identifying these complications, the department
16 **OF HEALTH AND HUMAN SERVICES** shall consider the annual statistical
17 report required under section 2835, and shall consider studies
18 concerning complications that have been published in a peer review
19 medical journal, with particular attention paid to the design of
20 the study, and shall consult with the federal ~~centers~~**CENTERS** for
21 ~~disease control~~**DISEASE CONTROL** and ~~prevention~~**PREVENTION**, the
22 American ~~congress~~**CONGRESS** of ~~obstetricians~~**OBSTETRICIANS** and
23 ~~gynecologists~~**GYNECOLOGISTS**, the Michigan ~~state medical society~~**,**
24 **STATE MEDICAL SOCIETY**, or any other source that the department **OF**
25 **HEALTH AND HUMAN SERVICES** determines appropriate for the purpose.
26 (iii) State that as the result of an abortion, some women may
27 experience depression, feelings of guilt, sleep disturbance, loss

1 of interest in work or sex, or anger, and that if these symptoms
 2 occur and are intense or persistent, professional help is
 3 recommended.

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

7 (v) Identify services available through public agencies to
 8 assist the patient during her pregnancy and after the birth of her
 9 child, should she choose to give birth and maintain custody of her
 10 child.

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

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

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

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

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27 (Name of operation(s) or procedure(s))

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A. I understand that I am approximately _____ weeks pregnant.

I consent to an abortion procedure to terminate my pregnancy. I understand that I have the right to withdraw my consent to the abortion procedure at any time before performance of that procedure.

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

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

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

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

3. A prenatal care and parenting information pamphlet.

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

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

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

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

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

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

3 2. Information pertaining to available pregnancy related
4 services.

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

7 H. I certify that I have not been required to make any
8 payments for an abortion or any medical service before the
9 expiration of 24 hours after I received the written materials
10 listed in paragraph C, or 24 hours after the time and date listed
11 on the confirmation form if the information described in paragraph
12 C was viewed from the state of Michigan internet ~~website.~~ **WEBSITE.**

13 **I. IF AN ULTRASOUND PROCEDURE WAS PERFORMED UPON ME, I CERTIFY**
14 **THAT I WAS OFFERED THE OPPORTUNITY TO VIEW, OR DECLINE TO VIEW, AN**
15 **ACTIVE ULTRASOUND IMAGE OF THE FETUS OR RECEIVE A PHYSICAL PICTURE**
16 **OF THE ULTRASOUND IMAGE OF THE FETUS THAT I AM CARRYING.**

17 **J. I CERTIFY THAT A FETAL HEARTBEAT (CHECK 1) ___ HAS ___ HAS**
18 **NOT BEEN DETECTED. IF A FETAL HEARTBEAT HAS NOT BEEN DETECTED, I**
19 **CERTIFY THAT I HAVE BEEN INFORMED ABOUT THE PROBABILITY OF**
20 **MAINTAINING THE PREGNANCY."**

21 (d) Make available to physicians through the Michigan board of
22 medicine and the Michigan board of osteopathic medicine and
23 surgery, and to any person upon request, the copies of medically
24 accurate depictions, illustrations, or photographs described in
25 subdivision (a), the written standardized summaries described in
26 subdivision (b), the acknowledgment and consent form described in
27 subdivision (c), the prenatal care and parenting information

1 pamphlet described in section 9161, the pregnancy certification
2 form described in subdivision (f), and the materials regarding
3 coercion to abort described in subdivision (i).

4 (e) ~~The department shall not develop~~ **IN DEVELOPING THE** written
5 standardized summaries for abortion procedures under subdivision
6 (b), ~~that utilize~~ **INCLUDE IN THE SUMMARIES ONLY** medication that has
7 ~~not~~ been approved by the United States ~~food~~ **FOOD** and ~~drug~~
8 ~~administration~~ **DRUG ADMINISTRATION** for use in performing an
9 abortion.

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

14 (g) Develop, operate, and maintain an internet website that
15 allows a patient considering an abortion to review the information
16 required in subsection (3)(c) ~~through~~ **TO** (f). After the patient
17 reviews the required information, the department shall ~~assure~~
18 **ENSURE** that a confirmation form can be printed by the patient from
19 the internet website that will verify the time and date the
20 information was reviewed. A confirmation form printed under this
21 subdivision becomes invalid 14 days after the date and time printed
22 on the confirmation form.

23 (h) Include on the informed consent internet website operated
24 under subdivision (g) a list of health care providers, facilities,
25 and clinics that offer to perform ultrasounds free of charge. The
26 list ~~shall~~ **MUST** be organized geographically and ~~shall~~ **MUST** include
27 the name, address, and telephone number of each health care

1 provider, facility, and clinic.

2 (i) After considering the standards and recommendations of the
3 ~~joint commission~~ **JOINT COMMISSION** on accreditation ~~ACCREDITATION~~ of
4 ~~healthcare organizations,~~ **HEALTHCARE ORGANIZATIONS**, the Michigan
5 domestic and sexual violence prevention and treatment board, the
6 Michigan ~~coalition~~ **COALITION** to end domestic ~~END DOMESTIC~~ and
7 ~~sexual violence~~ **SEXUAL VIOLENCE** or successor organization, and the
8 American ~~medical association,~~ **MEDICAL ASSOCIATION**, do all of the
9 following:

10 (i) Develop, draft, and print or make available in printable
11 format, in nontechnical English, Arabic, and Spanish, a notice that
12 is required to be posted in facilities and clinics under section
13 17015a. The notice ~~shall~~ **MUST** be at least 8-1/2 inches by 14
14 inches, ~~shall~~ **MUST** be printed in at least 44-point type, and ~~shall~~
15 **MUST** contain at a minimum all of the following:

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

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

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

23 (ii) Develop, draft, and print or make available in printable
24 format, in nontechnical English, Arabic, and Spanish, a
25 prescreening summary on prevention of coercion to abort that, at a
26 minimum, contains the information required under subparagraph (i)
27 and notifies the patient that an oral screening for coercion to

1 abort will be conducted before her giving written consent to obtain
2 an abortion.

3 (iii) Develop, draft, and print screening and training tools
4 and accompanying training materials to be utilized by a physician
5 or qualified person assisting the physician while performing the
6 coercion to abort screening required under section 17015a. The
7 screening tools ~~shall~~**MUST** instruct the physician or qualified
8 person assisting the physician to orally communicate information to
9 the patient regarding coercion to abort and to document the
10 findings from the coercion to abort screening in the patient's
11 medical record.

12 (iv) Develop, draft, and print protocols and accompanying
13 training materials to be utilized by a physician or a qualified
14 person assisting the physician if a patient discloses coercion to
15 abort or that domestic violence is occurring, or both, during the
16 coercion to abort screening. The protocols ~~shall~~**MUST** instruct the
17 physician or qualified person assisting the physician to do, at a
18 minimum, all of the following:

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

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

21 (C) Explore safety options with the patient.

22 (D) Provide referral information to the patient regarding law
23 enforcement and domestic violence and sexual assault support
24 organizations.

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

26 (12) A physician's duty to inform the patient under this
27 section does not require disclosure of information beyond what a

1 reasonably well-qualified physician licensed under this article
2 would possess.

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

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

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

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

19 (17) If any portion of this act or the application of this act
20 to any person or circumstances is found invalid by a court, that
21 invalidity does not affect the remaining portions or applications
22 of the act that can be given effect without the invalid portion or
23 application, if those remaining portions are not determined by the
24 court to be inoperable.

25 (18) Upon a patient's request, ~~each~~**A** local health department
26 shall **COMPLY WITH THE FOLLOWING:**

27 (a) Provide a pregnancy test for that patient to confirm the

1 pregnancy as required under subsection (3) (a) and determine the
2 probable gestational stage of the fetus. The local health
3 department need not comply with this subdivision if the
4 requirements of subsection (3) (a) have already been met.

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

8 (19) The identity and address of a patient who is provided
9 information or who consents to an abortion ~~pursuant to~~ **UNDER** this
10 section is confidential and is subject to disclosure only with the
11 consent of the patient or by judicial process.

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

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

19 (b) Destroy the information containing the identity and
20 address of the patient within 30 days after assisting the patient
21 under this section.

22 **SEC. 17015B. (1) EXCEPT WHEN A MEDICAL EMERGENCY EXISTS THAT**
23 **PREVENTS COMPLIANCE WITH THIS SECTION, A PHYSICIAN SHALL NOT**
24 **PERFORM AN ABORTION ON A PREGNANT WOMAN BEFORE DETERMINING, IN**
25 **ACCORDANCE WITH STANDARD MEDICAL PRACTICE, WHETHER A FETAL**
26 **HEARTBEAT IS DETECTABLE IN THE FETUS THE PREGNANT WOMAN IS**
27 **CARRYING. AN INDIVIDUAL WHO PERFORMS AN ABORTION IN A MEDICAL**

1 EMERGENCY WITHOUT DETERMINING WHETHER THE FETUS HAS A DETECTABLE
2 HEARTBEAT SHALL NOTE IN THE PREGNANT WOMAN'S MEDICAL RECORD THE
3 SPECIFIC NATURE OF THE MEDICAL EMERGENCY THAT EXISTED. COMPLIANCE
4 WITH THIS SECTION DOES NOT REQUIRE THE USE OF AN INTRAVAGINAL
5 DIAGNOSTIC PROCEDURE.

6 (2) IF DURING THE EXAMINATION REQUIRED UNDER SUBSECTION (1) A
7 FETAL HEARTBEAT IS DETECTED, THE PHYSICIAN OR A QUALIFIED PERSON
8 ASSISTING THE PHYSICIAN SHALL OFFER TO THE PREGNANT WOMAN THE
9 OPTION OF HEARING OR SEEING EVIDENCE OF THE FETAL HEARTBEAT.

10 (3) IF THE EXAMINATION REQUIRED UNDER SUBSECTION (1) DOES NOT
11 DETECT A FETAL HEARTBEAT, THE PHYSICIAN OR A QUALIFIED PERSON
12 ASSISTING THE PHYSICIAN SHALL DO ALL OF THE FOLLOWING THAT APPLY:

13 (A) INFORM THE PREGNANT WOMAN OF THE PROBABILITY OF
14 MAINTAINING THE PREGNANCY VERSUS EXPERIENCING A MISCARRIAGE, GIVEN
15 THE ABSENCE OF A DETECTABLE FETAL HEARTBEAT, THE STATE OF
16 PREGNANCY, AND OTHER FACTORS KNOWN TO AFFECT THE POSSIBILITY OF A
17 MISCARRIAGE.

18 (B) INFORM THE PREGNANT WOMAN WHETHER AN ADDITIONAL OPTION FOR
19 DETECTING THE FETAL HEARTBEAT IS AVAILABLE, INCLUDING, BUT NOT
20 LIMITED TO, AN ADDITIONAL DIAGNOSTIC PROCEDURE THAT COULD BE
21 PERFORMED IMMEDIATELY, OR AN ADDITIONAL DIAGNOSTIC PROCEDURE THAT
22 COULD BE DELAYED UNTIL A LATER DATE, TO DETERMINE IF THE FETUS IS
23 PHYSICALLY DEVELOPING.

24 (C) IF THE FETUS HAS BEEN VISIBLY IDENTIFIED BUT IS NOT
25 EXHIBITING A HEARTBEAT OR OTHER SIGNS OF PHYSICAL ACTIVITY, ADVISE
26 THE PREGNANT WOMAN THAT A PROCEDURE TO REMOVE A FETUS THAT HAS DIED
27 IS NOT CONSIDERED AN ABORTION UNDER LAW AND INFORM THE PREGNANT

1 **WOMAN OF THE RELATIVE RISKS AND BENEFITS OF DIFFERENT MEANS OF**
2 **TERMINATING THE PREGNANCY, INCLUDING MEDICAL INDUCEMENT, A SURGICAL**
3 **PROCEDURE, OR ALLOWING A MISCARRIAGE TO OCCUR SPONTANEOUSLY.**

4 Sec. 17515. A physician, before performing an abortion on a
5 patient, shall comply with sections 17015 ~~and 17015a.~~**TO 17015B.**

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