

REPRINT

**SUBSTITUTE FOR  
SENATE BILL NO. 864**

(As Passed the Senate April 28, 1998)

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 20165 (MCL 333.20165), as amended by 1990 PA  
179, and by adding sections 16274 and 20197.

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

1        SEC. 16274. (1) A LICENSEE OR REGISTRANT SHALL NOT ENGAGE  
2 IN OR ATTEMPT TO ENGAGE IN HUMAN CLONING.

3        (2) SUBSECTION (1) DOES NOT PROHIBIT SCIENTIFIC RESEARCH OR  
4 CELL-BASED THERAPIES NOT SPECIFICALLY PROHIBITED BY THAT  
5 SUBSECTION.

6        (3) A LICENSEE OR REGISTRANT WHO VIOLATES SUBSECTION (1) IS  
7 SUBJECT TO THE ADMINISTRATIVE PENALTIES PRESCRIBED IN SECTIONS  
8 16221 AND 16226 AND TO THE CIVIL PENALTY PRESCRIBED IN SECTION  
9 16275.

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1 (4) THIS SECTION DOES NOT GIVE A PERSON A PRIVATE RIGHT OF  
2 ACTION.

3 (5) AS USED IN THIS SECTION:

4 (A) "HUMAN CLONING" MEANS THE USE OF HUMAN SOMATIC CELL  
5 NUCLEAR TRANSFER TECHNOLOGY TO PRODUCE A HUMAN EMBRYO.

6 (B) "HUMAN EMBRYO" MEANS A HUMAN EGG CELL WITH A FULL GENE-  
7 TIC COMPOSITION CAPABLE OF DIFFERENTIATING AND MATURING INTO A  
8 COMPLETE HUMAN BEING.

9 (C) "HUMAN SOMATIC CELL" MEANS A CELL OF A DEVELOPING OR  
10 FULLY DEVELOPED HUMAN BEING THAT IS NOT AND WILL NOT BECOME A  
11 SPERM OR EGG CELL.

12 (D) "HUMAN SOMATIC CELL NUCLEAR TRANSFER" MEANS TRANSFERRING  
13 THE NUCLEUS OF A HUMAN SOMATIC CELL INTO AN EGG CELL FROM WHICH  
14 THE NUCLEUS HAS BEEN REMOVED OR RENDERED INERT.

15 Sec. 20165. (1) Except as otherwise provided in this sec-  
16 tion, after notice of intent to an applicant or licensee to deny,  
17 limit, suspend, or revoke ~~a~~ THE APPLICANT'S OR LICENSEE'S  
18 license or certification and an opportunity for a hearing, the  
19 department may deny, limit, suspend, or revoke the license or  
20 certification OR IMPOSE AN ADMINISTRATIVE FINE ON A LICENSEE if  
21 ~~any~~ 1 OR MORE of the following exist:

22 (a) Fraud or deceit in obtaining or attempting to obtain a  
23 license or certification or in THE operation of the licensed  
24 health facility or agency.

25 (b) A violation of this article or ~~the rules~~ A RULE  
26 promulgated under this article.

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1 (c) False or misleading advertising.

2 (d) Negligence or failure to exercise due care, including  
3 negligent supervision of employees and subordinates.

4 (e) Permitting a license or certificate to be used by an  
5 unauthorized health facility or agency.

6 (f) Evidence of abuse regarding ~~patient~~ A PATIENT'S  
7 health, welfare, or safety or THE DENIAL OF a ~~denial of~~  
8 PATIENT'S rights.

9 (g) Failure to comply with section 10102a(7).

10 (h) Failure to comply with part 222 or a term, condition, or  
11 stipulation of a certificate of need issued under part 222, or  
12 both.

13 (I) A VIOLATION OF SECTION 20197(1).

14 (2) ~~An~~ THE DEPARTMENT MAY DENY AN application for a  
15 license or certification ~~may be denied~~ BASED on a finding of  
16 ~~any~~ A condition or practice ~~which~~ THAT would constitute a  
17 violation of this article if the applicant were a licensee.

18 (3) Denial, suspension, or revocation of an individual emer-  
19 gency medical services personnel license under part 209 is gov-  
20 erned by section 20958.

21 (4) IF THE DEPARTMENT DETERMINES UNDER SUBSECTION (1) THAT A  
22 HEALTH FACILITY OR AGENCY HAS VIOLATED SECTION 20197(1), THE  
23 DEPARTMENT SHALL IMPOSE AN ADMINISTRATIVE FINE OF \$5,000,000.00  
24 ON THE HEALTH FACILITY OR AGENCY.

25 SEC. 20197. (1) A HEALTH FACILITY OR AGENCY SHALL NOT ALLOW  
26 A LICENSEE OR REGISTRANT UNDER ARTICLE 15 OR ANY OTHER INDIVIDUAL

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1 TO ENGAGE IN OR ATTEMPT TO ENGAGE IN HUMAN CLONING IN A FACILITY  
2 OWNED OR OPERATED BY THE HEALTH FACILITY OR AGENCY.

3 (2) SUBSECTION (1) DOES NOT PROHIBIT A HEALTH FACILITY OR  
4 AGENCY FROM ALLOWING A LICENSEE OR REGISTRANT UNDER ARTICLE 15 OR  
5 ANY OTHER INDIVIDUAL FROM ENGAGING IN SCIENTIFIC RESEARCH OR  
6 CELL-BASED THERAPIES NOT SPECIFICALLY PROHIBITED BY THAT  
7 SUBSECTION.

8 (3) A HEALTH FACILITY OR AGENCY THAT VIOLATES SUBSECTION (1)  
9 IS SUBJECT TO THE ADMINISTRATIVE PENALTIES PRESCRIBED IN SECTION  
10 20165(4).

11 (4) THIS SECTION DOES NOT GIVE A PERSON A PRIVATE RIGHT OF  
12 ACTION.

13 (5) AS USED IN THIS SECTION, "HUMAN CLONING" MEANS THAT TERM  
14 AS DEFINED IN SECTION 16274.

15 Enacting section 1. This amendatory act does not take  
16 effect unless all of the following bills of the 89th Legislature  
17 are enacted into law:

18 (a) House Bill No. 4846.

19 (b) House Bill No. 4962.

20 (c) House Bill No. 5475.