

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5711

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 2803, 2804, 2834, 2835, 2848, 13807, 16221,
16226, 16299, 17015, 17515, 20115, and 22224 (MCL 333.2803,
333.2804, 333.2834, 333.2835, 333.2848, 333.13807, 333.16221,
333.16226, 333.16299, 333.17015, 333.17515, 333.20115, and
333.22224), sections 2803, 2834, and 2848 as amended by 2002 PA
562, section 2804 as amended by 1990 PA 149, section 2835 as
amended by 2010 PA 117, section 13807 as added by 1990 PA 21,
section 16221 as amended by 2011 PA 222, section 16226 as amended
by 2011 PA 224, section 16299 as amended by 2002 PA 685, section
17015 as amended by 2006 PA 77, section 17515 as added by 1993 PA
133, and section 20115 as amended and section 22224 as added by

1999 PA 206, and by adding sections 2836, 2854, 17015a, 17017, and 17517.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2803. (1) **"ABORTION" MEANS THAT TERM AS DEFINED IN**
2 **SECTION 17015.**

3 (2) ~~(1)~~—"Dead body" means a human body or fetus, or a part
4 of a dead human body or fetus, in a condition from which it may
5 reasonably be concluded that death has occurred.

6 (3) ~~(2)~~—"Fetal death" means the death of a fetus ~~which~~**THAT**
7 has completed at least 20 weeks of gestation or weighs at least
8 400 grams. **FETAL DEATH INCLUDES A STILLBIRTH.** The definition
9 shall conform in all other respects as closely as possible to the
10 definition recommended by the federal agency responsible for
11 vital statistics.

12 (4) **"FETAL REMAINS" MEANS A DEAD FETUS OR PART OF A DEAD**
13 **FETUS THAT HAS COMPLETED AT LEAST 10 WEEKS OF GESTATION OR HAS**
14 **REACHED THE STAGE OF DEVELOPMENT THAT, UPON VISUAL INSPECTION OF**
15 **THE FETUS OR PART OF THE FETUS, THE HEAD, TORSO, OR EXTREMITIES**
16 **APPEAR TO BE SUPPORTED BY SKELETAL OR CARTILAGINOUS STRUCTURES.**
17 **FETAL REMAINS DO NOT INCLUDE THE UMBILICAL CORD OR PLACENTA.**

18 (5) ~~(3)~~—"File" means to present a certificate, report, or
19 other record to the local registrar ~~provided for in this part~~ for
20 registration by the state registrar.

21 (6) ~~(4)~~—"Final disposition" means the burial, cremation,
22 **INTERMENT**, or other **LEGAL** disposition of a dead ~~human~~ body or
23 ~~fetus~~**FETAL REMAINS.**

24 Sec. 2804. (1) "Institution" means a public or private

1 establishment ~~which~~ **THAT** provides inpatient medical, surgical, or
 2 diagnostic care or treatment or nursing, custodial, or
 3 domiciliary care to 2 or more unrelated individuals, including an
 4 establishment to which individuals are committed by law.

5 (2) "Law enforcement agency" means a police agency of a
 6 city, village, or township; a sheriff's department; the
 7 department of state police; and any other governmental law
 8 enforcement agency.

9 (3) "Live birth" means ~~a~~ **THAT** term **AS** defined by
 10 departmental rule which shall conform as closely as possible to
 11 the definition of live birth recommended by the federal agency
 12 responsible for vital statistics. **IN SECTION 1 OF THE BORN ALIVE**
 13 **INFANT PROTECTION ACT, 2002 PA 687, MCL 333.1071.**

14 (4) "Local registrar" means the county clerk or the clerk's
 15 deputy, or in the case of a city having a population of 40,000 or
 16 more, the city clerk or city department designated by the
 17 governing body of the city; or a registrar appointed pursuant to
 18 section 2814. Population shall be determined according to the
 19 latest federal decennial census.

20 (5) **"MISCARRIAGE" MEANS THE SPONTANEOUS EXPULSION OF A**
 21 **NONVIABLE FETUS THAT HAS COMPLETED LESS THAN 20 WEEKS OF**
 22 **GESTATION.**

23 (6) ~~(5)~~ "Registration" means the acceptance by the state
 24 registrar and the incorporation of certificates provided for in
 25 this part into the official vital records.

26 Sec. 2834. (1) A fetal death occurring in this state ~~as~~
 27 ~~defined by section 2803,~~ shall be reported to the state registrar

1 within 5 days after delivery. The state registrar shall prescribe
2 the form and manner for reporting fetal deaths.

3 (2) The **FETAL DEATH** reporting form shall not contain the
4 name of the biological parents, common identifiers such as social
5 security or drivers license numbers, or other information
6 identifiers that would make it possible to identify in any manner
7 or in any circumstances the biological parents of the fetus. A
8 state agency shall not compare data in an information system file
9 with data in another computer system ~~which~~**THAT** would result in
10 identifying in any way a woman or father involved in a fetal
11 death. Statistical information ~~which~~**THAT** may reveal the identity
12 of the biological parents involved in a fetal death shall not be
13 maintained. This subsection does not apply after June 1, 2003.

14 (3) If a dead fetus **THAT HAS COMPLETED AT LEAST 20 WEEKS OF**
15 **GESTATION OR WEIGHS AT LEAST 400 GRAMS** is delivered in an
16 institution, the individual in charge of the institution or his
17 or her authorized representative shall prepare and file the **FETAL**
18 **DEATH** report **AND SHALL FOLLOW THE PROTOCOLS IN PLACE FOR THE**
19 **INSTITUTION IN THE EVENT OF A DEATH THAT OCCURS AFTER A LIVE**
20 **BIRTH BUT BEFORE BEING DISCHARGED FROM THE INSTITUTION.**

21 (4) If a dead fetus **THAT HAS COMPLETED AT LEAST 20 WEEKS OF**
22 **GESTATION OR WEIGHS AT LEAST 400 GRAMS** is delivered outside an
23 institution, the physician in attendance shall prepare and file
24 the **FETAL DEATH** report.

25 (5) If a fetal death occurs without medical attendance at or
26 after the delivery or if inquiry is required by the medical
27 examiner, the attendant, mother, or other person having knowledge

1 of the fetal death shall notify the medical examiner who shall
2 investigate the cause and prepare and file the **FETAL DEATH**
3 report.

4 (6) The **FETAL DEATH** reports required under this section and
5 filed before June 1, 2003 are confidential statistical reports to
6 be used only for medical and health purposes and shall not be
7 incorporated into the permanent official records of the system of
8 vital statistics. A schedule for the disposition of these reports
9 shall be provided for by the department. The department or any
10 employee of the department shall not disclose to any person
11 outside the department the reports or the contents of the reports
12 required by this section and filed before June 1, 2003 in ~~any~~
13 ~~manner or fashion so as to permit~~ **A WAY THAT PERMITS** the person
14 ~~or entity~~ to whom the report is disclosed to identify ~~in any way~~
15 the biological parents.

16 (7) The **FETAL DEATH** reports required under this section and
17 filed on or after June 1, 2003 are permanent vital records
18 documents and shall be incorporated into the system of vital
19 statistics. ~~as described in section 2805.~~ Access to a fetal death
20 report or information contained on a fetal death report ~~shall be~~
21 **IS** the same as ~~to~~ a live birth record ~~in accordance with~~ **UNDER**
22 sections 2882, 2883, and 2888.

23 (8) With information provided to the department under
24 subsection (7), the department shall create a certificate of
25 stillbirth ~~which shall conform~~ **THAT CONFORMS** as nearly as
26 possible to recognized national standardized forms and ~~shall~~
27 ~~include,~~ **INCLUDES**, but **IS** not ~~be~~ limited to, the following

1 information:

2 (a) The name of the fetus, if it was given a name by the
3 parent or parents.

4 (b) The number of weeks of gestation completed.

5 (c) The date of delivery and weight at the time of delivery.

6 (d) The name of the parent or parents.

7 (e) The name of the ~~health facility~~ **INSTITUTION** in which the
8 fetus was delivered or the name of the health professional in
9 attendance if the delivery was outside a ~~health facility~~. **AN**
10 **INSTITUTION.**

11 Sec. 2835. (1) As used in this section and section 2837, +

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

13 ~~— (b) "Physical~~ **"PHYSICAL** complication" means a physical
14 condition occurring during or after an abortion that, under
15 generally accepted standards of medical practice, requires
16 medical attention. Physical complication includes, but is not
17 limited to, infection, hemorrhage, cervical laceration, or
18 perforation of the uterus.

19 (2) A physician who performs an abortion shall report the
20 performance of that procedure to the department on forms
21 prescribed and provided by the department. A physician shall
22 transmit a report required under this subsection to the director
23 within 7 days after the performance of the abortion.

24 (3) Each report of an abortion required under subsection (2)
25 shall contain only the following information and no other
26 information:

27 (a) The age of the ~~woman~~ **INDIVIDUAL** at the time of the

- 1 abortion.
- 2 (b) The marital status of the ~~woman~~-**INDIVIDUAL** at the time
3 of the abortion.
- 4 (c) The race and, if applicable, Hispanic ethnicity of the
5 ~~woman~~-**INDIVIDUAL**.
- 6 (d) The city or township, county, and state in which the
7 ~~woman~~-**INDIVIDUAL** resided at the time of the abortion.
- 8 (e) The ~~location~~-**NAME AND ADDRESS OF THE FACILITY** and **THE**
9 type of facility in which the abortion was performed.
- 10 (f) The source of referral to the physician performing the
11 abortion.
- 12 (g) The number of previous pregnancies carried to term.
- 13 (h) The number of previous pregnancies ending in spontaneous
14 abortion.
- 15 (i) The number of previous pregnancies terminated by
16 abortion.
- 17 (j) The method used before the abortion to confirm the
18 pregnancy, the period of gestation in weeks of the present
19 pregnancy, and the first day of the last menstrual period.
- 20 (k) The method used to perform the abortion.
- 21 (l) The weight of the embryo or fetus, if determinable.
- 22 (m) Whether the fetus showed evidence of life when
23 separated, expelled, or removed from the ~~woman~~-**INDIVIDUAL**.
- 24 (n) The date of performance of the abortion.
- 25 (o) The method and source of payment for the abortion.
- 26 (p) A physical complication or death resulting from the
27 abortion and observed by the physician or reported to the

1 physician or his or her agent before the report required under
2 subsection (2) is transmitted to the director.

3 (q) The physician's signature and his or her state license
4 number.

5 (4) The report required under subsection (2) shall not
6 contain the name of the ~~woman~~**INDIVIDUAL**, common identifiers such
7 as her social security number or motor vehicle operator's license
8 number or other information or identifiers that would make it
9 possible to identify in any manner or under any circumstances an
10 individual who has obtained or seeks to obtain an abortion. A
11 state agency shall not compare data in an electronic or other
12 information system file with data in another electronic or other
13 information system that would result in identifying in any manner
14 or under any circumstances an individual obtaining or seeking to
15 obtain an abortion. Statistical information that may reveal the
16 identity of a ~~woman~~**AN INDIVIDUAL** obtaining or seeking to obtain
17 an abortion shall not be maintained.

18 (5) The department shall destroy each individual report
19 required by this section and each copy of the report after
20 retaining the report for 5 years after the date the report is
21 received.

22 (6) The department shall make available annually in
23 aggregate a statistical report summarizing the information
24 submitted in each individual report required by this section. The
25 department shall specifically summarize aggregate data regarding
26 all of the following in the annual statistical report:

27 (a) The period of gestation in 4-week intervals from 5 weeks

1 through 28 weeks.

2 (b) Abortions performed on ~~women~~**INDIVIDUALS** aged 17 and
3 under.

4 (c) Physical complications reported under subsection (3)(p)
5 and section 2837.

6 (7) The reports required under this section are statistical
7 reports to be used only for medical and health purposes and shall
8 not be incorporated into the permanent official records of the
9 system of vital statistics.

10 (8) ~~The~~**EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (10), THE**
11 department or an employee of the department shall not disclose to
12 a person or entity outside the department the reports or the
13 contents of the reports required by this section in a manner or
14 fashion so as to permit the person or entity to whom the report
15 is disclosed to identify in any way the ~~person~~**INDIVIDUAL** who is
16 the subject of the report, **THE IDENTITY OF THE PHYSICIAN WHO**
17 **PERFORMED THE ABORTION, OR THE NAME OR ADDRESS OF A FACILITY IN**
18 **WHICH AN ABORTION WAS PERFORMED.**

19 (9) A person who discloses confidential identifying
20 information in violation of this section, section 2834(6), or
21 section 2837 is guilty of a felony punishable by imprisonment for
22 not more than 3 years or a fine of not more than \$5,000.00, or
23 both.

24 (10) **THE DEPARTMENT MAY RELEASE THE REPORTS OR THE CONTENTS**
25 **OF THE REPORTS REQUIRED BY THIS SECTION TO THE DEPARTMENT OF**
26 **LICENSING AND REGULATORY AFFAIRS FOR REGULATORY PURPOSES ONLY.**
27 **THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS OR AN EMPLOYEE**

1 OF THE DEPARTMENT OF LICENSING OR REGULATORY AFFAIRS SHALL NOT
2 DISCLOSE TO A PERSON OR ENTITY OUTSIDE OF THE DEPARTMENT OF
3 LICENSING AND REGULATORY AFFAIRS THE REPORTS OR THE CONTENTS OF
4 THE REPORTS REQUIRED BY THIS SECTION IN A MANNER OR FASHION SO AS
5 TO PERMIT THE PERSON OR ENTITY TO WHOM THE REPORT IS DISCLOSED TO
6 IDENTIFY IN ANY WAY THE INDIVIDUAL WHO IS THE SUBJECT OF THE
7 REPORT, THE IDENTITY OF THE PHYSICIAN WHO PERFORMED THE ABORTION,
8 OR THE NAME OR ADDRESS OF A FACILITY IN WHICH AN ABORTION WAS
9 PERFORMED.

10 SEC. 2836. (1) ALL FETAL REMAINS RESULTING FROM ABORTIONS
11 SHALL BE DISPOSED OF BY INTERMENT OR CREMATION AS THOSE TERMS ARE
12 DEFINED IN SECTION 2 OF THE CEMETERY REGULATION ACT, 1968 PA 251,
13 MCL 456.522, OR BY INCINERATION BY A PERSON OTHER THAN A CEMETERY
14 REGISTERED UNDER THE CEMETERY REGULATION ACT, 1968 PA 251, MCL
15 456.521 TO 456.543. UNLESS THE MOTHER HAS PROVIDED WRITTEN
16 CONSENT FOR RESEARCH ON THE FETAL REMAINS UNDER SECTION 2688, A
17 PHYSICIAN WHO PERFORMS AN ABORTION SHALL ARRANGE FOR THE FINAL
18 DISPOSITION OF THE FETAL REMAINS RESULTING FROM THE ABORTION.
19 DISPOSAL OF FETAL REMAINS RESULTING FROM AN ABORTION MAY OCCUR
20 WITHOUT THE SUPERVISION OF A FUNERAL DIRECTOR.

21 (2) THIS SECTION DOES NOT REQUIRE A PHYSICIAN TO DISCUSS THE
22 FINAL DISPOSITION OF THE FETAL REMAINS WITH THE MOTHER BEFORE
23 PERFORMING THE ABORTION, NOR DOES IT REQUIRE A PHYSICIAN TO
24 OBTAIN AUTHORIZATION FROM THE MOTHER FOR THE FINAL DISPOSITION OF
25 THE FETAL REMAINS UPON COMPLETION OF THE ABORTION.

26 Sec. 2848. (1) Except as OTHERWISE provided in sections 2844
27 and 2845, a funeral director or person acting as a funeral

1 director, who first assumes custody of a dead body, not later
 2 than 72 hours after death or the finding of a dead body and
 3 before final disposition of the body, shall obtain authorization
 4 for the final disposition. The authorization for final
 5 disposition of a dead body shall be issued on a form prescribed
 6 by the state registrar and signed by the local registrar or the
 7 state registrar.

8 (2) ~~Before~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 2836, OR**
 9 **UNLESS THE MOTHER HAS PROVIDED WRITTEN CONSENT FOR RESEARCH ON**
 10 **THE DEAD FETUS UNDER SECTION 2688, BEFORE** final disposition of a
 11 dead fetus, irrespective of the duration of pregnancy, the
 12 funeral director or person assuming responsibility for the final
 13 disposition of the fetus **OR FETAL REMAINS** shall obtain from the
 14 parents, or parent ~~in case of an~~ **IF THE MOTHER IS** unmarried,
 15 ~~mother,~~ an authorization for final disposition on a form
 16 prescribed and furnished or approved by the state registrar. The
 17 authorization may allow final disposition to be by a funeral
 18 director, the individual in charge of the institution where the
 19 fetus was delivered **OR MISCARRIED**, or an institution or agency
 20 authorized to accept donated bodies, ~~or~~ fetuses, **OR FETAL REMAINS**
 21 under this ~~code~~ **ACT. THE PARENTS, OR PARENT IF THE MOTHER IS**
 22 **UNMARRIED, MAY DIRECT THE FINAL DISPOSITION TO BE INTERMENT OR**
 23 **CREMATION AS THOSE TERMS ARE DEFINED IN SECTION 2 OF THE CEMETERY**
 24 **REGULATION ACT, 1968 PA 251, MCL 456.522, OR INCINERATION.** After
 25 final disposition, the funeral director, the individual in charge
 26 of the institution, or other person making the final disposition
 27 shall retain the permit for not less than 7 years. **THIS SECTION**

1 AS AMENDED BY THE AMENDATORY ACT THAT ADDED THIS SENTENCE DOES
2 NOT REQUIRE A RELIGIOUS SERVICE OR CEREMONY AS PART OF THE FINAL
3 DISPOSITION OF FETAL REMAINS.

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

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

10 (5) A permit for disposition issued under the law of another
11 state that accompanies a dead body or dead fetus brought into
12 this state is authorization for final disposition of the dead
13 body or dead fetus in this state.

14 **SEC. 2854. A PERSON WHO VIOLATES THIS PART BY FAILING TO**
15 **DISPOSE OF FETAL REMAINS RESULTING FROM AN ABORTION AS PRESCRIBED**
16 **IN SECTION 2836 OR BY FAILING TO OBTAIN THE PROPER AUTHORIZATION**
17 **FOR FINAL DISPOSITION OF A DEAD BODY AS PROVIDED UNDER SECTION**
18 **2848 IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AS PROVIDED**
19 **UNDER CHAPTER 88 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA**
20 **236, MCL 600.8801 TO 600.8835, AND MAY BE ORDERED TO PAY A CIVIL**
21 **FINE OF NOT MORE THAN \$1,000.00 PER VIOLATION.**

22 Sec. 13807. (1) "Pathogen" means a microorganism that
23 produces disease.

24 (2) "Pathological waste" means human organs, tissues, body
25 parts other than teeth, products of conception, and fluids
26 removed by trauma or during surgery, ~~or~~ autopsy, or other medical
27 procedure, and not fixed in formaldehyde. **PATHOLOGICAL WASTE DOES**

1 NOT INCLUDE A FETUS OR FETAL BODY PARTS.

2 (3) "Point of generation" means the point at which medical
3 waste leaves the producing facility site.

4 (4) "Producing facility" means a facility that generates,
5 stores, decontaminates, or incinerates medical waste.

6 (5) "PRODUCTS OF CONCEPTION" MEANS ANY TISSUES OR FLUIDS,
7 PLACENTA, UMBILICAL CORD, OR OTHER UTERINE CONTENTS RESULTING
8 FROM A PREGNANCY. PRODUCTS OF CONCEPTION DO NOT INCLUDE A FETUS
9 OR FETAL BODY PARTS.

10 (6) ~~(5)~~"Release" means any spilling, leaking, pumping,
11 pouring, emitting, emptying, discharging, injecting, escaping,
12 leaching, dumping, or disposing of medical waste into the
13 environment in violation of this part.

14 (7) ~~(6)~~"Response activity" means an activity necessary to
15 protect the public health, safety, welfare, and the environment,
16 and includes, but is not limited to, evaluation, cleanup,
17 removal, containment, isolation, treatment, monitoring,
18 maintenance, replacement of water supplies, and temporary
19 relocation of people.

20 (8) ~~(7)~~"Sharps" means needles, syringes, scalpels, and
21 intravenous tubing with needles attached.

22 (9) ~~(8)~~"Storage" means the containment of medical waste in
23 a manner that does not constitute disposal of the medical waste.

24 (10) ~~(9)~~"Transport" means the movement of medical waste
25 from the point of generation to any intermediate point and
26 finally to the point of treatment or disposal. Transport does not
27 include the movement of medical waste from a health facility or

House Bill No. 5711 as amended December 12, 2012

1 agency to another health facility or agency for the purposes of
2 testing and research.

3 <<Sec. 16221. The department may investigate activities related
4 to the practice of a health profession by a licensee, a registrant,
5 or an applicant for licensure or registration. The department may hold
6 hearings, administer oaths, and order **THE TAKING OF** relevant testimony
7 ~~to be taken~~ and shall report its findings to the appropriate disciplinary
8 subcommittee. The disciplinary subcommittee shall proceed under
9 section 16226 if it finds that 1 or more of the following grounds exist:

10 (a) A violation of general duty, consisting of negligence or
11 failure to exercise due care, including negligent delegation to or
12 supervision of employees or other individuals, whether or not injury
13 results, or any conduct, practice, or condition that impairs, or may
14 impair, the ability to safely and skillfully practice the health
15 profession.

16 (b) Personal disqualifications, consisting of 1 or more of the
17 following:

18 (i) Incompetence.

19 (ii) Subject to sections 16165 to 16170a, substance ~~abuse~~**USE**
20 **DISORDER** as defined in section ~~6107-100D~~ **OF THE MENTAL HEALTH CODE,**
21 **1974 PA 258, MCL 330.1100D.**

22 (iii) Mental or physical inability reasonably related to and
23 adversely affecting the licensee's ability to practice in a safe and
24 competent manner.

25 (iv) Declaration of mental incompetence by a court of
26 competent jurisdiction.

27 (v) Conviction of a misdemeanor punishable by imprisonment

House Bill No. 5711 as amended December 12, 2012

1 for a maximum term of 2 years; a misdemeanor involving the illegal
2 delivery, possession, or use of a controlled substance; or a felony. A
3 certified copy of the court record is conclusive evidence of the
4 conviction.

5 (vi) Lack of good moral character.

6 (vii) Conviction of a criminal offense under section 520e
7 or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and
8 750.520g. A certified copy of the court record is conclusive evidence
9 of the conviction.

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

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

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

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

House Bill No. 5711 as amended December 12, 2012

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

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

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

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

11 (ii) Permitting ~~the~~**A** license or registration to be used by an
12 unauthorized person.

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

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

19 (d) Unethical business practices, consisting of 1 or more of
20 the 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 medications
24 purchased by or on behalf of patients.

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

27 (e) Unprofessional conduct, consisting of 1 or more of the

House Bill No. 5711 as amended December 12, 2012

1 following:

2 (i) Misrepresentation to a consumer or patient or in obtaining or
3 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, device,
7 treatment, procedure, or service.

8 (iv) Either of the following:

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

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

House Bill No. 5711 as amended December 12, 2012

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

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

19 (f) Beginning June 3, 2003, the department of consumer and industry
20 services shall prepare the first of 3 annual reports on the effect of
21 2002 PA 402 on access to care for the uninsured and medicaid patients.
22 The department shall report on the number of referrals by licensees of
23 uninsured and medicaid patients to purchase or secure a drug, device,
24 treatment, procedure, or service from another person, place, facility, or
25 business in which the licensee has a financial interest.

26 (g) Failure to report a change of name or mailing address within 30
27 days after the change occurs.

House Bill No. 5711 as amended December 12, 2012

- 1 (h) A violation, or aiding or abetting in a violation, of this
2 article or of a rule promulgated under this article.
- 3 (i) Failure to comply with a subpoena issued pursuant to this
4 part, failure to respond to a complaint issued under this article or
5 article 7, failure to appear at a compliance conference or an
6 administrative hearing, or failure to report under section 16222 or
7 16223.
- 8 (j) Failure to pay an installment of an assessment levied pursuant
9 ~~to~~**UNDER** the insurance code of 1956, 1956 PA 218, MCL 500.100 to
10 500.8302, within 60 days after notice by the appropriate board.
- 11 (k) A violation of section 17013 or 17513.
- 12 (l) Failure to meet 1 or more of the requirements for licensure or
13 registration under section 16174.
- 14 (m) A violation of section 17015, ~~or~~**17015A, 17017, 17515, OR**
15 **17517.**
- 16 (n) A violation of section 17016 or 17516.
- 17 (o) Failure to comply with section 9206(3).
- 18 (p) A violation of section 5654 or 5655.
- 19 (q) A violation of section 16274.
- 20 (r) A violation of section 17020 or 17520.
- 21 (s) A violation of the medical records access act, 2004 PA 47, MCL
22 333.26261 to 333.26271.
- 23 (t) A violation of section 17764(2).

24
25
26
27

House Bill No. 5711 as amended December 12, 2012

1

2

3

>>

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

<u>Violations of Section 16221</u>	<u>Sanctions</u>
8 Subdivision (a), (b) (ii), 9 (b) (iv), (b) (vi), or 10 (b) (vii)	Probation, limitation, denial, suspension, revocation, restitution, community service, or fine.
11 12 13 14 Subdivision (b) (viii)	Revocation or denial.
15 16 Subdivision (b) (i), 17 (b) (iii), (b) (v), 18 (b) (ix), (b) (x), 19 (b) (xi), or (b) (xii)	Limitation, suspension, revocation, denial, probation, restitution, community service, or fine.
20 21 Subdivision (b) (xiii)	Probation, limitation, denial, suspension, revocation, restitution, community service, fine, or, subject to subsection 22 (5), permanent revocation.
23 24 25 26 27 28 Subdivision (c) (i)	Denial, revocation, suspension, probation, limitation, community 29

1 service, or fine.
2
3 Subdivision (c) (ii) Denial, suspension, revocation,
4 restitution, community service,
5 or fine.
6
7 Subdivision (c) (iii) Probation, denial, suspension,
8 revocation, restitution,
9 community service, or fine.
10
11 Subdivision (c) (iv) Fine, probation, denial,
12 or (d) (iii) suspension, revocation, community
13 service, or restitution.
14
15 Subdivision (d) (i) Reprimand, fine, probation,
16 or (d) (ii) community service, denial,
17 or restitution.
18
19 Subdivision (e) (i) Reprimand, fine, probation,
20 limitation, suspension, community
21 service, denial, or restitution.
22
23 Subdivision (e) (ii) Reprimand, probation,
24 or ~~(i)~~ (I) suspension, restitution,
25 community service, denial, or
26 fine.
27
28 Subdivision (e) (iii), Reprimand, fine, probation,
29 (e) (iv), or (e) (v) suspension, revocation,
30 limitation, community service,
31 denial, or restitution.

1		
2	Subdivision (g)	Reprimand or fine.
3		
4	Subdivision (h) or (s)	Reprimand, probation, denial,
5		suspension, revocation,
6		limitation, restitution,
7		community service, or fine.
8		
9	Subdivision (j)	Suspension or fine.
10		
11	Subdivision (k), (p),	Reprimand or fine.
12	or (r)	
13		
14	Subdivision (l)	Reprimand, denial, or
15		limitation.
16		
17	Subdivision (m) or (o)	Denial, revocation, restitution,
18		probation, suspension,
19		limitation, reprimand, or fine.
20		
21	Subdivision (n)	Revocation or denial.
22		
23	Subdivision (q)	Revocation.
24		
25	Subdivision (t)	Revocation, fine, and
26		restitution.

27 (2) Determination of sanctions for violations under this
28 section shall be made by a disciplinary subcommittee. If, during
29 judicial review, the court of appeals determines that a final
30 decision or order of a disciplinary subcommittee prejudices

1 substantial rights of the petitioner for 1 or more of the grounds
2 listed in section 106 of the administrative procedures act of
3 1969, 1969 PA 306, MCL 24.306, and holds that the final decision
4 or order is unlawful and is to be set aside, the court shall
5 state on the record the reasons for the holding and may remand
6 the case to the disciplinary subcommittee for further
7 consideration.

8 (3) A disciplinary subcommittee may impose a fine of up to,
9 but not exceeding, \$250,000.00 for a violation of section
10 16221(a) or (b).

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

18 (5) A disciplinary subcommittee shall not impose the
19 sanction of permanent revocation for a violation of section
20 16221(b) *(xiii)* unless the violation occurred while the licensee or
21 registrant was acting within the health profession for which he
22 or she was licensed or registered.

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

1 (a) For the first offense, by imprisonment for not more than
2 90 days, or a fine of not more than \$100.00, or both.

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

6 (2) Subsection (1) does not apply to a violation of section
7 17015, ~~or 17015A~~, 17017, 17515, OR 17517.

8 Sec. 17015. (1) Subject to subsection (10), a physician
9 shall not perform an abortion otherwise permitted by law without
10 the patient's informed written consent, given freely and without
11 coercion **TO ABORT**.

12 (2) For purposes of this section **AND SECTION 17015A**:

13 (a) "Abortion" means the intentional use of an instrument,
14 drug, or other substance or device to terminate a woman's
15 pregnancy for a purpose other than to increase the probability of
16 a live birth, to preserve the life or health of the child after
17 live birth, or to remove a ~~dead~~-fetus **THAT HAS DIED AS A RESULT**
18 **OF NATURAL CAUSES, ACCIDENTAL TRAUMA, OR A CRIMINAL ASSAULT ON**
19 **THE PREGNANT WOMAN**. Abortion does not include the use or
20 prescription of a drug or device intended as a contraceptive.

21 (B) **"COERCION TO ABORT" MEANS AN ACT COMMITTED WITH THE**
22 **INTENT TO COERCE AN INDIVIDUAL TO HAVE AN ABORTION, WHICH ACT IS**
23 **PROHIBITED BY SECTION 213A OF THE MICHIGAN PENAL CODE, 1931 PA**
24 **328, MCL 750.213A.**

25 (C) **"DOMESTIC VIOLENCE" MEANS THAT TERM AS DEFINED IN**
26 **SECTION 1 OF 1978 PA 389, MCL 400.1501.**

27 (D) ~~(b)~~-"Fetus" means an individual organism of the species

1 homo sapiens in utero.

2 (E) ~~(e)~~—"Local health department representative" means a
3 person ~~—~~who meets 1 or more of the licensing requirements listed
4 in subdivision ~~(f)~~—(H) and who is employed by, or under contract
5 to provide services on behalf of, a local health department.

6 (F) ~~(d)~~—"Medical emergency" means that condition which, on
7 the basis of the physician's good faith clinical judgment, so
8 complicates the medical condition of a pregnant woman as to
9 necessitate the immediate abortion of her pregnancy to avert her
10 death or for which a delay will create serious risk of
11 substantial and irreversible impairment of a major bodily
12 function.

13 (G) ~~(e)~~—"Medical service" means the provision of a
14 treatment, procedure, medication, examination, diagnostic test,
15 assessment, or counseling, including, but not limited to, a
16 pregnancy test, ultrasound, pelvic examination, or an abortion.

17 (H) ~~(f)~~—"Qualified person assisting the physician" means
18 another physician or a physician's assistant licensed under this
19 part or part 175, a fully licensed or limited licensed
20 psychologist licensed under part 182, a professional counselor
21 licensed under part 181, a registered professional nurse or a
22 licensed practical nurse licensed under part 172, or a social
23 worker licensed under part 185.

24 (I) ~~(g)~~—"Probable gestational age of the fetus" means the
25 gestational age of the fetus at the time an abortion is planned
26 to be performed.

27 (J) ~~(h)~~—"Provide the patient with a physical copy" means

1 confirming that the patient accessed the internet website
2 described in subsection (5) and received a printed valid
3 confirmation form from the website and including that form in the
4 patient's medical record or giving a patient a copy of a required
5 document by 1 or more of the following means:

6 (i) In person.

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

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

10 (iv) By facsimile transmission.

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

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

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

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

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

25 (iii) Information about how to obtain pregnancy prevention
26 information through the department of community health.

27 (c) Provide the patient with a physical copy of the written

1 **STANDARDIZED** summary described in subsection (11)(b) that
2 corresponds to the procedure the patient will undergo and is
3 provided by the department of community health. If the procedure
4 has not been recognized by the department, but is otherwise
5 allowed under Michigan law, and the department has not provided a
6 written **STANDARDIZED** summary for that procedure, the physician
7 shall develop and provide a written summary that describes the
8 procedure, any known risks or complications of the procedure, and
9 risks associated with live birth and meets the requirements of
10 subsection (11)(b)(iii) through (vii).

11 (d) Provide the patient with a physical copy of a medically
12 accurate depiction, illustration, or photograph and description
13 of a fetus supplied by the department of community health
14 pursuant to subsection (11)(a) at the gestational age nearest the
15 probable gestational age of the patient's fetus.

16 (e) Provide the patient with a physical copy of the prenatal
17 care and parenting information pamphlet distributed by the
18 department of community health under section 9161.

19 **(F) PROVIDE THE PATIENT WITH A PHYSICAL COPY OF THE**
20 **PRESCREENING SUMMARY ON PREVENTION OF COERCION TO ABORT DESCRIBED**
21 **IN SUBSECTION (11)(I).**

22 (4) The requirements of subsection (3) may be fulfilled by
23 the physician or a qualified person assisting the physician at a
24 location other than the health facility where the abortion is to
25 be performed. The requirement of subsection (3)(a) that a
26 patient's pregnancy be confirmed may be fulfilled by a local
27 health department under subsection (18). The requirements of

1 subsection (3) cannot be fulfilled by the patient accessing an
2 internet website other than the internet website ~~described in~~
3 ~~subsection (5)~~ that is maintained ~~through~~ **AND OPERATED BY** the
4 department **UNDER SUBSECTION (11) (G)**.

5 (5) The requirements of subsection (3) (c) through ~~(e)~~ **(F)**
6 may be fulfilled by a patient accessing the internet website **THAT**
7 **IS** maintained and operated ~~through~~ **BY** the department **UNDER**
8 **SUBSECTION (11) (G)** and receiving a printed, valid confirmation
9 form from the website that the patient has reviewed the
10 information required in subsection (3) (c) through ~~(e)~~ **(F)** at
11 least 24 hours before an abortion being performed on the patient.
12 The website shall not require any information be supplied by the
13 patient. The department shall not track, compile, or otherwise
14 keep a record of information that would identify a patient who
15 accesses this website. The patient shall supply the valid
16 confirmation form to the physician or qualified person assisting
17 the physician to be included in the patient's medical record to
18 comply with this subsection.

19 (6) Subject to subsection (10), before obtaining the
20 patient's signature on the acknowledgment and consent form, a
21 physician personally and in the presence of the patient shall do
22 all of the following:

23 (a) Provide the patient with the physician's name, **CONFIRM**
24 **WITH THE PATIENT THAT THE COERCION TO ABORT SCREENING REQUIRED**
25 **UNDER SECTION 17015A WAS PERFORMED**, and inform the patient of her
26 right to withhold or withdraw her consent to the abortion at any
27 time before performance of the abortion.

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

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

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

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

15 (8) If at any time ~~prior to~~**BEFORE** the performance of an
16 abortion, a patient undergoes an ultrasound examination, or a
17 physician determines that ultrasound imaging will be used during
18 the course of a patient's abortion, the physician or qualified
19 person assisting the physician shall provide the patient with the
20 opportunity to view or decline to view an active ultrasound image
21 of the fetus, and offer to provide the patient with a physical
22 picture of the ultrasound image of the fetus ~~prior to~~**BEFORE** the
23 performance of the abortion. ~~Before~~**AFTER THE EXPIRATION OF THE**
24 **24-HOUR PERIOD PRESCRIBED UNDER SUBSECTION (3) BUT BEFORE**
25 performing an abortion on a patient who is a pregnant woman, a
26 physician or a qualified person assisting the physician shall do
27 all of the following:

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

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

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

10 (9) This subsection does not prohibit notifying the patient
11 that payment for medical services will be required or that
12 collection of payment in full for all medical services provided
13 or planned may be demanded after the 24-hour period described in
14 this subsection has expired. A physician or an agent of the
15 physician shall not collect payment, in whole or in part, for a
16 medical service provided to or planned for a patient before the
17 expiration of 24 hours from the time the patient has done either
18 or both of the following, except in the case of a physician or an
19 agent of a physician receiving capitated payments or under a
20 salary arrangement for providing those medical services:

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

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

26 (10) If the attending physician, utilizing his or her
27 experience, judgment, and professional competence, determines

1 that a medical emergency exists and necessitates performance of
2 an abortion before the requirements of subsections (1), (3), and
3 (6) can be met, the physician is exempt from the requirements of
4 subsections (1), (3), and (6), may perform the abortion, and
5 shall maintain a written record identifying with specificity the
6 medical factors upon which the determination of the medical
7 emergency is based.

8 (11) The department of community health shall do each of the
9 following:

10 (a) Produce medically accurate depictions, illustrations, or
11 photographs of the development of a human fetus that indicate by
12 scale the actual size of the fetus at 2-week intervals from the
13 fourth week through the twenty-eighth week of gestation. Each
14 depiction, illustration, or photograph shall be accompanied by a
15 printed description, in nontechnical English, Arabic, and
16 Spanish, of the probable anatomical and physiological
17 characteristics of the fetus at that particular state of
18 gestational development.

19 (b) Subject to subdivision ~~(g)~~, **(E)**, develop, draft, and
20 print, in nontechnical English, Arabic, and Spanish, written
21 standardized summaries, based upon the various medical procedures
22 used to abort pregnancies, that do each of the following:

23 (i) Describe, individually and on separate documents, those
24 medical procedures used to perform abortions in this state that
25 are recognized by the department.

26 (ii) Identify the physical complications that have been
27 associated with each procedure described in subparagraph (i) and

1 with live birth, as determined by the department. In identifying
2 these complications, the department shall consider the annual
3 statistical report required under section ~~2835(6)~~—2835, and shall
4 consider studies concerning complications that have been
5 published in a peer review medical journal, with particular
6 attention paid to the design of the study, and shall consult with
7 the federal centers for disease control **AND PREVENTION**, the
8 American college—**CONGRESS** of obstetricians and gynecologists, the
9 Michigan state medical society, or any other source that the
10 department determines appropriate for the purpose.

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

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

19 (v) Identify services available through public agencies to
20 assist the patient during her pregnancy and after the birth of
21 her child, should she choose to give birth and maintain custody
22 of her child.

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

27 (vii) Identify services available through public agencies to

1 assist the patient and provide counseling should she experience
2 subsequent adverse psychological effects from the abortion.

3 (c) Develop, draft, and print, in nontechnical English,
4 Arabic, and Spanish, an acknowledgment and consent form that
5 includes only the following language above a signature line for
6 the patient:

7 "I, _____, **VOLUNTARILY AND**
8 **WILLFULLY** hereby authorize Dr. _____ ("the
9 physician") and any assistant designated by the physician to
10 perform upon me the following operation(s) or procedure(s):

11 _____
12 (Name of operation(s) or procedure(s))

13 _____
14 **A.** I understand that I am approximately _____ weeks
15 pregnant. I consent to an abortion procedure to terminate my
16 pregnancy. I understand that I have the right to withdraw my
17 consent to the abortion procedure at any time ~~prior to~~ **BEFORE**
18 performance of that procedure.

19 **B. I UNDERSTAND THAT IT IS ILLEGAL FOR ANYONE TO COERCE ME**
20 **INTO SEEKING AN ABORTION.**

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

24 1. ~~(a)~~—A medically accurate depiction, illustration, or
25 photograph of a fetus at the probable gestational age of the
26 fetus I am carrying.

27 2. ~~(b)~~—A written description of the medical procedure that

1 will be used to perform the abortion.

2 3. ~~(c)~~—A prenatal care and parenting information pamphlet.

3 D. If any of the ~~above listed~~ documents **LISTED IN PARAGRAPH**
4 **C** were transmitted by facsimile, I certify that the documents
5 were clear and legible.

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

8 1. ~~(i)~~—The specific risk to me, if any, of the complications
9 that have been associated with the procedure I am scheduled to
10 undergo.

11 2. ~~(ii)~~—The specific risk to me, if any, of the complications
12 if I choose to continue the pregnancy.

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

15 1. ~~(d)~~—Information about what to do and whom to contact in
16 the event that complications arise from the abortion.

17 2. ~~(e)~~—Information pertaining to available pregnancy related
18 services.

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

21 H. I certify that I have not been required to make any
22 payments for an abortion or any medical service before the
23 expiration of 24 hours after I received the written materials
24 listed in ~~paragraphs (a), (b), and (c) above,~~ **PARAGRAPH C**, or 24
25 hours after the time and date listed on the confirmation form if
26 ~~paragraphs (a), (b), and (c) were~~ **THE INFORMATION DESCRIBED IN**
27 **PARAGRAPH C WAS** viewed from the state of Michigan internet

1 website.".

2 (d) Make available to physicians through the Michigan board
3 of medicine and the Michigan board of osteopathic medicine and
4 surgery, and **TO** any person upon request, the copies of medically
5 accurate depictions, illustrations, or photographs described in
6 subdivision (a), the **WRITTEN** standardized ~~written~~ summaries
7 described in subdivision (b), the acknowledgment and consent form
8 described in subdivision (c), the prenatal care and parenting
9 information pamphlet described in section 9161, ~~and~~ the pregnancy
10 certification form described in subdivision (f), **AND THE**
11 **MATERIALS REGARDING COERCION TO ABORT DESCRIBED IN SUBDIVISION**
12 **(I)**.

13 (e) The department shall not develop written **STANDARDIZED**
14 summaries for abortion procedures under subdivision (b) that
15 utilize medication that has not been approved by the United
16 States food and drug administration for use in performing an
17 abortion.

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

23 (g) Develop, **OPERATE**, and maintain an internet website that
24 allows a patient considering an abortion to review the
25 information required in subsection (3)(c) through ~~(e)~~—**(F)**. After
26 the patient reviews the required information, the department
27 shall assure that a confirmation form can be printed by the

1 patient from the internet website that will verify the time and
2 date the information was reviewed. A confirmation form printed
3 under this subdivision becomes invalid 14 days after the date and
4 time printed on the confirmation form.

5 (h) Include on the informed consent **INTERNET** website
6 ~~developed~~**OPERATED** under subdivision (g) a list of health care
7 providers, facilities, and clinics that offer to perform
8 ultrasounds free of charge. The list shall be organized
9 geographically and shall include the name, address, and telephone
10 number of each health care provider, facility, and clinic.

11 (I) **AFTER CONSIDERING THE STANDARDS AND RECOMMENDATIONS OF**
12 **THE JOINT COMMISSION ON ACCREDITATION OF HEALTHCARE**
13 **ORGANIZATIONS, THE MICHIGAN DOMESTIC AND SEXUAL VIOLENCE**
14 **PREVENTION AND TREATMENT BOARD, THE MICHIGAN COALITION TO END**
15 **DOMESTIC AND SEXUAL VIOLENCE OR SUCCESSOR ORGANIZATION, AND THE**
16 **AMERICAN MEDICAL ASSOCIATION, DO ALL OF THE FOLLOWING:**

17 (i) **DEVELOP, DRAFT, AND PRINT OR MAKE AVAILABLE IN PRINTABLE**
18 **FORMAT, IN NONTECHNICAL ENGLISH, ARABIC, AND SPANISH, A NOTICE**
19 **THAT IS REQUIRED TO BE POSTED IN FACILITIES AND CLINICS UNDER**
20 **SECTION 17015A. THE NOTICE SHALL BE AT LEAST 8-1/2 INCHES BY 14**
21 **INCHES, SHALL BE PRINTED IN AT LEAST 44-POINT TYPE, AND SHALL**
22 **CONTAIN AT A MINIMUM ALL OF THE FOLLOWING:**

23 (A) **A STATEMENT THAT IT IS ILLEGAL UNDER MICHIGAN LAW TO**
24 **COERCE A WOMAN TO HAVE AN ABORTION.**

25 (B) **A STATEMENT THAT HELP IS AVAILABLE IF A WOMAN IS BEING**
26 **THREATENED OR INTIMIDATED; IS BEING PHYSICALLY, EMOTIONALLY, OR**
27 **SEXUALLY HARMED; OR FEELS AFRAID FOR ANY REASON.**

1 (C) THE TELEPHONE NUMBER OF AT LEAST 1 DOMESTIC VIOLENCE
2 HOTLINE AND 1 SEXUAL ASSAULT HOTLINE.

3 (ii) DEVELOP, DRAFT, AND PRINT OR MAKE AVAILABLE IN PRINTABLE
4 FORMAT, IN NONTECHNICAL ENGLISH, ARABIC, AND SPANISH, A

5 PRESCREENING SUMMARY ON PREVENTION OF COERCION TO ABORT THAT, AT
6 A MINIMUM, CONTAINS THE INFORMATION REQUIRED UNDER SUBPARAGRAPH

7 (i) AND NOTIFIES THE PATIENT THAT AN ORAL SCREENING FOR COERCION
8 TO ABORT WILL BE CONDUCTED BEFORE HER GIVING WRITTEN CONSENT TO
9 OBTAIN AN ABORTION.

10 (iii) DEVELOP, DRAFT, AND PRINT SCREENING AND TRAINING TOOLS
11 AND ACCOMPANYING TRAINING MATERIALS TO BE UTILIZED BY A PHYSICIAN
12 OR QUALIFIED PERSON ASSISTING THE PHYSICIAN WHILE PERFORMING THE
13 COERCION TO ABORT SCREENING REQUIRED UNDER SECTION 17015A. THE
14 SCREENING TOOLS SHALL INSTRUCT THE PHYSICIAN OR QUALIFIED PERSON
15 ASSISTING THE PHYSICIAN TO ORALLY COMMUNICATE INFORMATION TO THE
16 PATIENT REGARDING COERCION TO ABORT AND TO DOCUMENT THE FINDINGS
17 FROM THE COERCION TO ABORT SCREENING IN THE PATIENT'S MEDICAL
18 RECORD.

19 (iv) DEVELOP, DRAFT, AND PRINT PROTOCOLS AND ACCOMPANYING
20 TRAINING MATERIALS TO BE UTILIZED BY A PHYSICIAN OR A QUALIFIED
21 PERSON ASSISTING THE PHYSICIAN IF A PATIENT DISCLOSES COERCION TO
22 ABORT OR THAT DOMESTIC VIOLENCE IS OCCURRING, OR BOTH, DURING THE
23 COERCION TO ABORT SCREENING. THE PROTOCOLS SHALL INSTRUCT THE
24 PHYSICIAN OR QUALIFIED PERSON ASSISTING THE PHYSICIAN TO DO, AT A
25 MINIMUM, ALL OF THE FOLLOWING:

26 (A) FOLLOW THE REQUIREMENTS OF SECTION 17015A AS APPLICABLE.

27 (B) ASSESS THE PATIENT'S CURRENT LEVEL OF DANGER.

1 (C) EXPLORE SAFETY OPTIONS WITH THE PATIENT.

2 (D) PROVIDE REFERRAL INFORMATION TO THE PATIENT REGARDING
3 LAW ENFORCEMENT AND DOMESTIC VIOLENCE AND SEXUAL ASSAULT SUPPORT
4 ORGANIZATIONS.

5 (E) DOCUMENT ANY REFERRALS IN THE PATIENT'S MEDICAL RECORD.

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

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

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

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

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

26 (17) If any portion of this act or the application of this
27 act to any person or circumstances is found invalid by a court,

1 that invalidity does not affect the remaining portions or
2 applications of the act that can be given effect without the
3 invalid portion or application, if those remaining portions are
4 not determined by the court to be inoperable.

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

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

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

15 (19) The identity and address of a patient who is provided
16 information or who consents to an abortion pursuant to this
17 section is confidential and is subject to disclosure only with
18 the consent of the patient or by judicial process.

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

23 (a) Only release the identity and address of the patient to
24 a physician or qualified person assisting the physician in order
25 to verify the receipt of the information required under this
26 section.

27 (b) Destroy the information containing the identity and

1 address of the patient within 30 days after assisting the patient
2 under this section.

3 SEC. 17015A. (1) AT THE TIME A PATIENT FIRST PRESENTS AT A
4 PRIVATE OFFICE, FREESTANDING SURGICAL OUTPATIENT FACILITY, OR
5 OTHER FACILITY OR CLINIC IN WHICH ABORTIONS ARE PERFORMED FOR THE
6 PURPOSE OF OBTAINING AN ABORTION, WHETHER BEFORE OR AFTER THE
7 EXPIRATION OF THE 24-HOUR PERIOD DESCRIBED IN SECTION 17015(3),
8 THE PHYSICIAN OR QUALIFIED PERSON ASSISTING THE PHYSICIAN SHALL
9 ORALLY SCREEN THE PATIENT FOR COERCION TO ABORT USING THE
10 SCREENING TOOLS DEVELOPED BY THE DEPARTMENT UNDER SECTION
11 17015(11). THE ORAL SCREENING REQUIRED UNDER THIS SUBSECTION MAY
12 OCCUR BEFORE THE REQUIREMENTS OF SECTION 17015(3) HAVE BEEN MET
13 WITH REGARD TO THAT PATIENT.

14 (2) IF A PATIENT DISCLOSES THAT SHE IS THE VICTIM OF
15 DOMESTIC VIOLENCE THAT DOES NOT INCLUDE COERCION TO ABORT, THE
16 PHYSICIAN OR QUALIFIED PERSON ASSISTING THE PHYSICIAN SHALL
17 FOLLOW THE PROTOCOLS DEVELOPED BY THE DEPARTMENT UNDER SECTION
18 17015(11).

19 (3) IF A PATIENT DISCLOSES COERCION TO ABORT, THE PHYSICIAN
20 OR QUALIFIED PERSON ASSISTING THE PHYSICIAN SHALL FOLLOW THE
21 PROTOCOLS DEVELOPED BY THE DEPARTMENT UNDER SECTION 17015(11).

22 (4) IF A PATIENT WHO IS UNDER THE AGE OF 18 DISCLOSES
23 DOMESTIC VIOLENCE OR COERCION TO ABORT BY AN INDIVIDUAL
24 RESPONSIBLE FOR THE HEALTH OR WELFARE OF THE MINOR PATIENT, THE
25 PHYSICIAN OR QUALIFIED PERSON ASSISTING THE PHYSICIAN SHALL
26 REPORT THAT FACT TO A LOCAL CHILD PROTECTIVE SERVICES OFFICE.

27 (5) A PRIVATE OFFICE, FREESTANDING SURGICAL OUTPATIENT

1 FACILITY, OR OTHER FACILITY OR CLINIC IN WHICH ABORTIONS ARE
2 PERFORMED SHALL POST IN A CONSPICUOUS PLACE IN AN AREA OF ITS
3 FACILITY THAT IS ACCESSIBLE TO PATIENTS, EMPLOYEES, AND VISITORS
4 THE NOTICE DESCRIBED IN SECTION 17015(11)(I). A PRIVATE OFFICE,
5 FREESTANDING SURGICAL OUTPATIENT FACILITY, OR OTHER FACILITY OR
6 CLINIC IN WHICH ABORTIONS ARE PERFORMED SHALL MAKE AVAILABLE IN
7 AN AREA OF ITS FACILITY THAT IS ACCESSIBLE TO PATIENTS,
8 EMPLOYEES, AND VISITORS PUBLICATIONS THAT CONTAIN INFORMATION
9 ABOUT VIOLENCE AGAINST WOMEN.

10 (6) THIS SECTION DOES NOT CREATE A RIGHT TO ABORTION.
11 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A PERSON
12 SHALL NOT PERFORM AN ABORTION THAT IS PROHIBITED BY LAW.

13 SEC. 17017. (1) THIS SECTION AND SECTION 17517 DO NOT APPLY
14 AFTER DECEMBER 31, 2018.

15 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A
16 PHYSICIAN SHALL NOT DIAGNOSE AND PRESCRIBE A MEDICAL ABORTION FOR
17 A PATIENT WHO IS OR IS PRESUMED TO BE PREGNANT UNLESS THE
18 PHYSICIAN OR AN INDIVIDUAL LICENSED AND QUALIFIED BY EDUCATION
19 AND TRAINING FIRST PERSONALLY PERFORMS A PHYSICAL EXAMINATION OF
20 THE PATIENT. A PHYSICIAN SHALL NOT UTILIZE OTHER MEANS INCLUDING,
21 BUT NOT LIMITED TO, AN INTERNET WEB CAMERA, TO DIAGNOSE AND
22 PRESCRIBE A MEDICAL ABORTION.

23 (3) A PHYSICIAN SHALL OBTAIN THE INFORMED CONSENT OF A
24 PATIENT IN THE MANNER PRESCRIBED UNDER SECTION 17015 TO PERFORM A
25 MEDICAL ABORTION. THE PHYSICIAN SHALL BE PHYSICALLY PRESENT AT
26 THE LOCATION OF THE MEDICAL ABORTION WHEN THE PRESCRIPTION DRUG
27 USED TO INITIATE THE MEDICAL ABORTION IS DISPENSED. AN INDIVIDUAL

1 UNDER THE DIRECT SUPERVISION OF THE PRESCRIBING PHYSICIAN WHO IS
2 QUALIFIED BY EDUCATION AND TRAINING AS PROVIDED IN THIS ACT MAY
3 DISPENSE OR ADMINISTER THE PRESCRIPTION DRUG USED TO INITIATE THE
4 MEDICAL ABORTION.

5 (4) THIS SECTION DOES NOT CREATE A RIGHT TO ABORTION.
6 NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A PERSON
7 SHALL NOT PERFORM AN ABORTION THAT IS PROHIBITED BY LAW.

8 (5) AS USED IN THIS SECTION:

9 (A) "ABORTION" MEANS THAT TERM AS DEFINED IN SECTION 17015.

10 (B) "MEDICAL ABORTION" MEANS AN ABORTION PROCEDURE THAT IS
11 NOT A SURGICAL PROCEDURE AND THAT UTILIZES A PRESCRIPTION DRUG TO
12 INDUCE AN ABORTION.

13 (C) "PRESCRIPTION DRUG" MEANS THAT TERM AS DEFINED IN
14 SECTION 17708.

15 Sec. 17515. A physician, before performing an abortion on a
16 patient, shall comply with ~~section~~ SECTIONS 17015 AND 17015A.

17 SEC. 17517. A PHYSICIAN SHALL COMPLY WITH SECTION 17017.

18 Sec. 20115. (1) The department may promulgate rules to
19 further define the term "health facility or agency" and the
20 definition of a health facility or agency listed in section 20106
21 as required to implement this article. The department may define
22 a specific organization as a health facility or agency for the
23 sole purpose of certification authorized under this article. For
24 purpose of certification only, an organization defined in section
25 20106(5), 20108(1), or 20109(4) is considered a health facility
26 or agency. The term "health facility or agency" does not mean a
27 visiting nurse service or home aide service conducted by and for

1 the adherents of a church or religious denomination for the
2 purpose of providing service for those who depend upon spiritual
3 means through prayer alone for healing.

4 (2) The department shall promulgate rules to differentiate a
5 freestanding surgical outpatient facility from a private office
6 of a physician, dentist, podiatrist, or other health
7 professional. The department shall specify in the rules that a
8 facility including, but not limited to, a private practice office
9 described in this subsection ~~in which 50% or more of the patients~~
10 ~~annually served at the facility undergo an abortion~~ must be
11 licensed under this article as a freestanding surgical outpatient
12 facility **IF THAT FACILITY PERFORMS 120 OR MORE SURGICAL ABORTIONS**
13 **PER YEAR AND PUBLICLY ADVERTISES OUTPATIENT ABORTION SERVICES.**

14 (3) The department shall promulgate rules that in effect
15 republish R 325.3826, R 325.3832, R 325.3835, R 325.3857, R
16 325.3866, R 325.3867, and R 325.3868 of the Michigan
17 administrative code, but shall include in the rules standards for
18 a freestanding surgical outpatient facility ~~in which 50% or more~~
19 ~~of the patients annually served in the freestanding surgical~~
20 ~~outpatient facility undergo an abortion.~~ **OR PRIVATE PRACTICE**
21 **OFFICE THAT PERFORMS 120 OR MORE SURGICAL ABORTIONS PER YEAR AND**
22 **THAT PUBLICLY ADVERTISES OUTPATIENT ABORTION SERVICES.** The
23 department shall assure that the standards are consistent with
24 the most recent United States supreme court decisions regarding
25 state regulation of abortions.

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

House Bill No. 5711 as amended December 12, 2012

1 325.3801 to R 325.3877 of the Michigan administrative code
2 regarding construction or equipment standards, or both, for a
3 freestanding surgical outpatient facility ~~in which 50% or more of~~
4 ~~the patients annually served in the freestanding surgical~~
5 ~~outpatient facility undergo an abortion~~ **THAT PERFORMS 120 OR MORE**
6 **SURGICAL ABORTIONS PER YEAR AND THAT PUBLICLY ADVERTISES**
7 **OUTPATIENT ABORTION SERVICES**, if both of the following conditions
8 are met:

9 (a) The freestanding surgical outpatient facility was in
10 existence and operating on ~~the effective date of the amendatory~~
11 ~~act that added this subsection.~~ **<<DECEMBER 31, 2012>>**.

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

21 (5) **BY JANUARY 15 EACH YEAR, THE DEPARTMENT OF COMMUNITY**
22 **HEALTH SHALL PROVIDE THE FOLLOWING INFORMATION TO THE DEPARTMENT**
23 **OF LICENSING AND REGULATORY AFFAIRS:**

24 (A) **FROM DATA RECEIVED BY THE DEPARTMENT OF COMMUNITY HEALTH**
25 **THROUGH THE ABORTION REPORTING REQUIREMENTS OF SECTION 2835, ALL**
26 **OF THE FOLLOWING:**

27 (i) **THE NAME AND LOCATION OF EACH FACILITY AT WHICH ABORTIONS**

1 WERE PERFORMED DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.

2 (ii) THE TOTAL NUMBER OF ABORTIONS PERFORMED AT THAT FACILITY
3 LOCATION DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.

4 (iii) THE TOTAL NUMBER OF SURGICAL ABORTIONS PERFORMED AT THAT
5 FACILITY LOCATION DURING THE IMMEDIATELY PRECEDING CALENDAR YEAR.

6 (B) WHETHER A FACILITY AT WHICH SURGICAL ABORTIONS WERE
7 PERFORMED IN THE IMMEDIATELY PRECEDING CALENDAR YEAR PUBLICLY
8 ADVERTISES ABORTION SERVICES.

9 (6) ~~(5)~~As used in this subsection, "abortion" SECTION:

10 (A) "ABORTION" means that term as defined in section 17015.

11 (B) "PUBLICLY ADVERTISES" MEANS TO ADVERTISE USING DIRECTORY
12 OR INTERNET ADVERTISING INCLUDING YELLOW PAGES, WHITE PAGES,
13 BANNER ADVERTISING, OR ELECTRONIC PUBLISHING.

14 (C) "SURGICAL ABORTION" MEANS AN ABORTION THAT IS NOT A
15 MEDICAL ABORTION AS THAT TERM IS DEFINED IN SECTION 17017.

16 Sec. 22224. (1) A health facility required to be licensed as
17 a freestanding surgical outpatient facility by rules promulgated
18 under section 20115(2) DUE TO THE PERFORMANCE OF ABORTIONS AT
19 THAT FACILITY is not required to obtain a certificate of need in
20 order to be granted a license as a freestanding surgical
21 outpatient facility. HOWEVER, A HEALTH FACILITY DESCRIBED IN THIS
22 SUBSECTION IS SUBJECT TO THIS PART FOR THE SERVICES PERFORMED AT
23 THAT FACILITY OTHER THAN ABORTIONS.

24 (2) If a freestanding surgical outpatient facility is
25 applying for a certificate of need to initiate, replace, or
26 expand a covered clinical service consisting of surgical
27 services, the department shall not count abortion procedures in

House Bill No. 5711 as amended December 12, 2012
as amended December 14, 2012

1 determining if the freestanding surgical outpatient facility
2 meets the annual minimum number of surgical procedures required
3 in the certificate of need standards governing surgical services.

4 (3) AS USED IN THIS SECTION, "ABORTION" MEANS THAT TERM AS
5 DEFINED IN SECTION 17015.

6 Enacting section 1. This amendatory act takes effect March
7 31, 2013.

[<<

>>]