

# HOUSE BILL No. 5774

July 18, 2012, Introduced by Rep. Heise and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 1104, 20106, 20115, 20142, 21325, 21766, and  
22205 (MCL 333.1104, 333.20106, 333.20115, 333.20142, 333.21325,  
333.21766, and 333.22205), section 1104 as amended by 1996 PA 307,  
section 20106 as amended by 2000 PA 253, section 20115 as amended  
by 1999 PA 206, section 21325 as added by 2000 PA 437, section  
21766 as amended by 2001 PA 243, and section 22205 as amended by  
2002 PA 619, and by adding part 218.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1104. (1) "Acknowledgment of parentage" means an  
2       acknowledgment executed as provided in the acknowledgment of  
3       parentage act.

4       (2) "Administrative procedures act of 1969" means ~~Act No. 306~~

1 ~~of the Public Acts of 1969, being sections 24.201 to 24.328 of the~~  
2 ~~Michigan Compiled Laws, THE ADMINISTRATIVE PROCEDURES ACT OF 1969,~~  
3 ~~1969 PA 306, MCL 24.201 TO 24.328,~~ or a successor act.

4 (3) "Adult" means an individual 18 years of age or older.

5 (4) "Code" means the public health code.

6 (5) "Department", except as provided in article 15 **AND PART**  
7 **218**, means the state department of community health.

8 (6) "Director", except as provided in article 15 **AND PART 218**,  
9 means the state director of community health.

10 (7) "Governmental entity" means a government, governmental  
11 subdivision or agency, or public corporation.

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

14 (a) An ambulance operation, aircraft transport operation,  
15 nontransport prehospital life support operation, or medical first  
16 response service.

17 (b) A clinical laboratory.

18 (c) A county medical care facility.

19 (d) A freestanding surgical outpatient facility.

20 (e) A health maintenance organization.

21 (f) A home for the aged.

22 (g) A hospital.

23 (h) A nursing home.

24 (i) A hospice.

25 (j) A hospice residence.

26 (k) A facility or agency listed in subdivisions (a) to (h)  
27 located in a university, college, or other educational institution.

1           **(1) A HOME CARE AGENCY.**

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

5           **(3) "HOME CARE AGENCY" MEANS THAT TERM AS DEFINED IN SECTION**  
6 **21809.**

7           (4) ~~(3)~~—"Home for the aged" means a supervised personal care  
8 facility, other than a hotel, adult foster care facility, hospital,  
9 nursing home, or county medical care facility that provides room,  
10 board, and supervised personal care to 21 or more unrelated,  
11 nontransient, individuals 60 years of age or older. Home for the  
12 aged includes a supervised personal care facility for 20 or fewer  
13 individuals 60 years of age or older if the facility is operated in  
14 conjunction with and as a distinct part of a licensed nursing home.

15           (5) ~~(4)~~—"Hospice" means a health care program that provides a  
16 coordinated set of services rendered at home or in outpatient or  
17 institutional settings for individuals suffering from a disease or  
18 condition with a terminal prognosis.

19           (6) ~~(5)~~—"Hospital" means a facility offering inpatient,  
20 overnight care, and services for observation, diagnosis, and active  
21 treatment of an individual with a medical, surgical, obstetric,  
22 chronic, or rehabilitative condition requiring the daily direction  
23 or supervision of a physician. Hospital does not include a mental  
24 health hospital licensed or operated by the department of community  
25 health or a hospital operated by the department of corrections.

26           (7) ~~(6)~~—"Hospital long-term care unit" means a nursing care  
27 facility, owned and operated by and as part of a hospital,

1 providing organized nursing care and medical treatment to 7 or more  
2 unrelated individuals suffering or recovering from illness, injury,  
3 or infirmity.

4       Sec. 20115. (1) The department may promulgate rules to further  
5 define the term "health facility or agency" and the definition of a  
6 health facility or agency listed in section 20106 as required to  
7 implement this article. The department may define a specific  
8 organization as a health facility or agency for the sole purpose of  
9 certification authorized under this article. For purpose of  
10 certification only, an organization defined in section ~~20106(5)~~,  
11 **20106(6)**, 20108(1), or 20109(4) is considered a health facility or  
12 agency. The term "health facility or agency" does not mean a  
13 visiting nurse service or home aide service conducted by and for  
14 the adherents of a church or religious denomination for the purpose  
15 of providing service for those who depend upon spiritual means  
16 through prayer alone for healing.

17       (2) The department shall promulgate rules to differentiate a  
18 freestanding surgical outpatient facility from a private office of  
19 a physician, dentist, podiatrist, or other health professional. The  
20 department shall specify in the rules that a facility including,  
21 but not limited to, a private practice office described in this  
22 subsection in which 50% or more of the patients annually served at  
23 the facility undergo an abortion must be licensed under this  
24 article as a freestanding surgical outpatient facility.

25       (3) The department shall promulgate rules that in effect  
26 republish R 325.3826, R 325.3832, R 325.3835, R 325.3857, R  
27 325.3866, R 325.3867, and R 325.3868 of the Michigan administrative

1 code, but shall include in the rules standards for a freestanding  
2 surgical outpatient facility in which 50% or more of the patients  
3 annually served in the freestanding surgical outpatient facility  
4 undergo an abortion. The department shall assure that the standards  
5 are consistent with the most recent United States supreme court  
6 decisions regarding state regulation of abortions.

7 (4) Subject to section 20145 and part 222, the department may  
8 modify or waive 1 or more of the rules contained in R 325.3801 to R  
9 325.3877 of the Michigan administrative code regarding construction  
10 or equipment standards, or both, for a freestanding surgical  
11 outpatient facility in which 50% or more of the patients annually  
12 served in the freestanding surgical outpatient facility undergo an  
13 abortion, if both of the following conditions are met:

14 (a) The freestanding surgical outpatient facility was in  
15 existence and operating on ~~the effective date of the amendatory act~~  
16 ~~that added this subsection.~~ **MARCH 10, 2000.**

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

26 (5) As used in this ~~subsection,~~ **SECTION,** "abortion" means that  
27 term as defined in section 17015.

1       Sec. 20142. (1) A health facility or agency shall apply for  
2   licensure or certification on a form authorized and provided by the  
3   department. The application shall include attachments, additional  
4   data, and information required **UNDER THIS ARTICLE AND** by the  
5   department.

6       (2) An applicant shall certify the accuracy of information  
7   supplied in the application and supplemental statements.

8       (3) An applicant or a licensee under part 213, ~~ex-217~~, **OR 218**  
9   shall disclose the names, addresses, principal occupations, and  
10   official positions of all ~~persons~~ **INDIVIDUALS** who have an ownership  
11   interest in the health facility or agency. If the health facility  
12   or agency is located on or in leased real estate, the applicant or  
13   licensee shall disclose the name of the lessor and any direct or  
14   indirect interest the applicant or licensee has in the lease other  
15   than as lessee. A change in ownership shall be reported to the  
16   director not less than 15 days before the change occurs, except  
17   that a person purchasing stock of a company registered pursuant to  
18   the securities exchange act of 1934, ~~15 U.S.C. 78a to 78kk~~, **15 USC**  
19   **78A TO 7800**, is exempt from disclosing ownership in the facility. A  
20   person required to file a beneficial ownership report pursuant to  
21   section 16(a) of the securities exchange act of 1934, ~~15 U.S.C. 78p~~  
22   **15 USC 78P**, shall file with the department information relating to  
23   securities ownership required by the department rule or order. An  
24   applicant or licensee proposing a sale of a nursing home to another  
25   person shall provide the department with written, advance notice of  
26   the proposed sale. The applicant or licensee and the other parties  
27   to the sale shall arrange to meet with specified department

1 representatives and shall obtain before the sale a determination of  
2 the items of noncompliance with applicable law and rules ~~which~~**THAT**  
3 shall be corrected. The department shall notify the respective  
4 parties of the items of noncompliance prior to the change of  
5 ownership and shall indicate that the items of noncompliance must  
6 be corrected as a condition of issuance of a license to the new  
7 owner. The department may accept reports filed with the securities  
8 and exchange commission relating to the filings. A person who  
9 violates this subsection is guilty of a misdemeanor, punishable by  
10 a fine of not more than \$1,000.00 for each violation.

11 (4) An applicant or licensee under part 217 shall disclose the  
12 names and business addresses of suppliers who furnish goods or  
13 services to an individual nursing home or a group of nursing homes  
14 under common ownership, the aggregate charges for which exceed  
15 \$5,000.00 in a 12-month period ~~which~~**THAT** includes a month in a  
16 nursing home's current fiscal year. An applicant or licensee shall  
17 disclose the names, addresses, principal occupations, and official  
18 positions of all ~~persons~~**INDIVIDUALS** who have an ownership interest  
19 in a business ~~which~~**THAT** furnishes goods or services to an  
20 individual nursing home or to a group of nursing homes under common  
21 ownership, if both of the following apply:

22 (a) The ~~person~~**INDIVIDUAL**, or the ~~person's~~**INDIVIDUAL'S**  
23 spouse, parent, sibling, or child, has an ownership interest in the  
24 nursing home purchasing the goods or services.

25 (b) The aggregate charges for the goods or services purchased  
26 exceeds \$5,000.00 in a 12-month period ~~which~~**THAT** includes a month  
27 in the nursing home's current fiscal year.

1           (5) An applicant or licensee who makes a false statement in an  
2 application or statement required by the department pursuant to  
3 this article is guilty of a felony ~~—~~punishable by imprisonment for  
4 not more than 4 years ~~—~~or a fine of not more than \$30,000.00, or  
5 both.

6           Sec. 21325. If a resident of a home for the aged is receiving  
7 care in the facility in addition to the room, board, and supervised  
8 personal care specified in section ~~20106(3)~~, **20106(4)**, as  
9 determined by a physician, the department shall not order the  
10 removal of the resident from the home for the aged if both of the  
11 following conditions are met:

12           (a) The resident, the resident's family, the resident's  
13 physician, and the owner, operator, and governing body of the home  
14 for the aged consent to the resident's continued stay in the home  
15 for the aged.

16           (b) The owner, operator, and governing body of the home for  
17 the aged commit to assuring that the resident receives the  
18 necessary additional services.

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

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

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

27           (c) At the time the source of payment for the patient's care



1 changes.

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

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

15 (4) A nursing home shall provide a copy of the contract to the  
16 patient, the patient's representative, or the patient's legal  
17 representative or legal guardian at the time the contract is  
18 executed.

19 (5) For a patient supported by funds other than the patient's  
20 own funds, a nursing home shall make a copy of the contract  
21 available to the person providing the funds for the patient's  
22 support.

23 (6) For a patient whose care is reimbursed with public funds  
24 administered by the department of community health, a nursing home  
25 shall maintain a copy of the contract in the patient's file at the  
26 nursing home and upon request shall make a copy of the contract  
27 available to the department of community health.

1           (7) The nursing home shall ensure that the contract is written  
2 in clear and unambiguous language and is printed in not less than  
3 12-point type. The form of the contract shall be prescribed by the  
4 department.

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

6           (a) The term of the contract.

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

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

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

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

15          (f) The rights, duties, and obligations of the patient, except  
16 that the specification of a patient's rights may be furnished on a  
17 separate document that complies with the requirements of section  
18 20201.

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

25          (10) A nursing home employee may request the appointment of a  
26 guardian for an individual applicant or patient only if the nursing  
27 home employee reasonably believes that the individual meets the

1 legal requirements for the appointment of a guardian.

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

4 (a) A hospital licensed under part 215.

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

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

9 (d) A freestanding surgical outpatient facility licensed under  
10 part 208.

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

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

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

18 (b) A health facility or agency located in a correctional  
19 institution.

20 (c) A veterans facility operated by the state or federal  
21 government.

22 (d) A facility owned and operated by the department of  
23 community health.

24 (3) "Initiate" means the offering of a covered clinical  
25 service that has not been offered in compliance with this part or  
26 former part 221 on a regular basis at that location within the 12-  
27 month period immediately preceding the date the covered clinical

1 service will be offered.

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

4 PART 218

5 SEC. 21801. (1) FOR PURPOSES OF THIS PART, THE WORDS AND  
6 PHRASES DEFINED IN SECTIONS 21803 TO 21813 HAVE THE MEANINGS  
7 ASCRIBED TO THEM IN THOSE SECTIONS.

8 (2) IN ADDITION, ARTICLE 1 CONTAINS GENERAL DEFINITIONS AND  
9 PRINCIPLES OF CONSTRUCTION APPLICABLE TO ALL ARTICLES IN THIS CODE  
10 AND PART 201 CONTAINS DEFINITIONS APPLICABLE TO THIS PART.

11 SEC. 21803. (1) "CERTIFIED HOME CARE AGENCY" MEANS AN AGENCY  
12 THAT IS CERTIFIED BY EITHER THE FEDERAL CENTERS FOR MEDICARE AND  
13 MEDICAID SERVICES OR THE DEPARTMENT TO PROVIDE SKILLED HOME HEALTH  
14 OR PERSONAL CARE SERVICES.

15 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF LICENSING AND  
16 REGULATORY AFFAIRS.

17 (3) "DIRECTOR" MEANS THE DEPARTMENT DIRECTOR OR HIS OR HER  
18 DESIGNEE.

19 SEC. 21805. (1) "HOME CARE AGENCY" MEANS A SOLE  
20 PROPRIETORSHIP, PARTNERSHIP, ASSOCIATION, CORPORATION, GOVERNMENT  
21 OR GOVERNMENTAL SUBDIVISION OR AGENCY SUBJECT TO THE RESTRICTIONS  
22 OF THIS ARTICLE, NONPROFIT AGENCY, OR ANY OTHER LEGAL OR COMMERCIAL  
23 ENTITY THAT MANAGES AND OFFERS, DIRECTLY OR BY CONTRACT, SKILLED  
24 HOME HEALTH SERVICES OR PERSONAL CARE SERVICES TO A HOME CARE  
25 CONSUMER IN THE HOME CARE CONSUMER'S TEMPORARY OR PERMANENT HOME OR  
26 PLACE OF RESIDENCE. A RESIDENTIAL HEALTH FACILITY OR AGENCY THAT  
27 DELIVERS SKILLED HOME HEALTH OR PERSONAL CARE SERVICES THAT THE

1 HEALTH FACILITY OR AGENCY IS NOT LICENSED TO PROVIDE MUST EITHER BE  
2 LICENSED AS A HOME CARE AGENCY OR REQUIRE THE SKILLED HOME HEALTH  
3 OR PERSONAL CARE SERVICES TO BE DELIVERED BY A LICENSED HOME CARE  
4 AGENCY. HOME CARE AGENCY DOES NOT INCLUDE ANY OF THE FOLLOWING:

5 (A) AN ORGANIZATION THAT PROVIDES ONLY HOUSEKEEPING SERVICES.

6 (B) A COMMUNITY AND RURAL HEALTH NETWORK THAT FURNISHES HOME  
7 VISITS FOR THE PURPOSE OF PUBLIC HEALTH MONITORING AND DISEASE  
8 TRACKING.

9 (C) AN INDIVIDUAL WHO IS NOT EMPLOYED BY OR AFFILIATED WITH A  
10 HOME CARE AGENCY AND WHO ACTS ALONE, WITHOUT EMPLOYEES OR  
11 CONTRACTORS.

12 (D) AN OUTPATIENT REHABILITATION AGENCY OR COMPREHENSIVE  
13 OUTPATIENT REHABILITATION FACILITY CERTIFIED UNDER TITLE XVIII OR  
14 XIX.

15 (E) A CONSUMER-DIRECTED ATTENDANT PROGRAM ADMINISTERED BY THE  
16 DEPARTMENT.

17 (F) A LICENSED DIALYSIS CENTER THAT PROVIDES IN-HOME DIALYSIS  
18 SERVICES, SUPPLIES, AND EQUIPMENT.

19 (G) SUBJECT TO THE REQUIREMENTS OF SECTION 21825, A HEALTH  
20 FACILITY OR AGENCY OTHERWISE LICENSED BY THE DEPARTMENT.

21 (H) A HOME CARE PLACEMENT AGENCY.

22 (2) "HOME CARE AGENCY CASH FUND" OR "FUND" MEANS THE HOME CARE  
23 AGENCY CASH FUND CREATED IN SECTION 21831.

24 (3) "HOME CARE CONSUMER" MEANS A PERSON WHO RECEIVES SKILLED  
25 HOME HEALTH SERVICES OR PERSONAL CARE SERVICES IN HIS OR HER  
26 TEMPORARY OR PERMANENT HOME OR PLACE OF RESIDENCE FROM A HOME CARE  
27 AGENCY OR HOME CARE PLACEMENT AGENCY.

1           (4) "HOME CARE PLACEMENT AGENCY" MEANS AN ORGANIZATION THAT,  
2 FOR A FEE, PROVIDES ONLY REFERRALS OF PROVIDERS TO HOME CARE  
3 CONSUMERS SEEKING SERVICES. A HOME CARE PLACEMENT AGENCY DOES NOT  
4 INCLUDE AN ORGANIZATION THAT PROVIDES SKILLED HOME HEALTH SERVICES  
5 OR PERSONAL CARE SERVICES TO A HOME CARE CONSUMER IN THE HOME CARE  
6 CONSUMER'S TEMPORARY OR PERMANENT HOME OR PLACE OF RESIDENCE  
7 DIRECTLY OR BY CONTRACT.

8           SEC. 21809. (1) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP,  
9 CORPORATION, ASSOCIATION, GOVERNMENTAL ENTITY, OR OTHER LEGAL  
10 ENTITY.

11           (2) "PERSONAL CARE SERVICES" MEANS ASSISTANCE WITH ACTIVITIES  
12 OF DAILY LIVING, INCLUDING, BUT NOT LIMITED TO, BATHING, DRESSING,  
13 EATING, TRANSFERRING, WALKING OR MOBILITY, TOILETING, AND  
14 CONTINENCE CARE. PERSONAL CARE SERVICES ALSO INCLUDE HOUSEKEEPING,  
15 PERSONAL LAUNDRY, MEDICATION REMINDERS, AND COMPANIONSHIP SERVICES  
16 FURNISHED TO A HOME CARE CONSUMER IN THE HOME CARE CONSUMER'S  
17 TEMPORARY OR PERMANENT HOME OR PLACE OF RESIDENCE AND THOSE NORMAL  
18 DAILY ROUTINES THAT THE HOME CARE CONSUMER COULD PERFORM FOR  
19 HIMSELF OR HERSELF WERE HE OR SHE PHYSICALLY CAPABLE, THAT ARE  
20 INTENDED TO ENABLE THAT INDIVIDUAL TO REMAIN SAFELY AND COMFORTABLY  
21 IN THE HOME CARE CONSUMER'S TEMPORARY OR PERMANENT HOME OR PLACE OF  
22 RESIDENCE.

23           SEC. 21813. (1) "SKILLED HOME HEALTH SERVICES" MEANS HEALTH  
24 AND MEDICAL SERVICES FURNISHED TO A HOME CARE CONSUMER IN THE HOME  
25 CARE CONSUMER'S TEMPORARY OR PERMANENT HOME OR PLACE OF RESIDENCE  
26 THAT INCLUDE WOUND CARE SERVICES, USE OF MEDICAL SUPPLIES INCLUDING  
27 DRUGS AND BIOLOGICALS PRESCRIBED BY A PHYSICIAN, IN-HOME INFUSION

SERVICES, NURSING SERVICES, HOME HEALTH AIDE OR CERTIFIED NURSE AIDE SERVICES THAT REQUIRE THE SUPERVISION OF A LICENSED OR CERTIFIED HEALTH CARE PROFESSIONAL ACTING WITHIN THE SCOPE OF HIS OR HER LICENSE OR CERTIFICATE, OCCUPATIONAL THERAPY, PHYSICAL THERAPY, RESPIRATORY CARE SERVICES, DIETETICS AND NUTRITION COUNSELING SERVICES, MEDICATION ADMINISTRATION, MEDICAL SOCIAL SERVICES, AND SPEECH-LANGUAGE PATHOLOGY SERVICES. SKILLED HOME HEALTH SERVICES DO NOT INCLUDE DELIVERY OF EITHER DURABLE MEDICAL EQUIPMENT OR MEDICAL SUPPLIES.

(2) "TITLE XVIII" MEANS TITLE XVIII OF THE SOCIAL SECURITY ACT, 42 USC 1395 TO 1395KKK-1.

(3) "TITLE XIX" MEANS TITLE XIX OF THE SOCIAL SECURITY ACT, 42 USC 1396 TO 1396W-5.

SEC. 21821. (1) BEGINNING JANUARY 1, 2014, A PERSON SHALL NOT CONDUCT OR MAINTAIN A HOME CARE AGENCY THAT PROVIDES SKILLED HOME HEALTH SERVICES WITHOUT HAVING SUBMITTED A COMPLETED APPLICATION FOR LICENSURE AS A HOME CARE AGENCY TO THE DEPARTMENT. BEGINNING JANUARY 1, 2015, A PERSON SHALL NOT CONDUCT OR MAINTAIN A HOME CARE AGENCY THAT PROVIDES SKILLED HOME HEALTH SERVICES WITHOUT HAVING OBTAINED A LICENSE FROM THE DEPARTMENT.

(2) BEGINNING JANUARY 1, 2015, A PERSON SHALL NOT CONDUCT OR MAINTAIN A HOME CARE AGENCY THAT PROVIDES IN-HOME PERSONAL CARE SERVICES WITHOUT HAVING SUBMITTED A COMPLETED APPLICATION FOR LICENSURE AS A HOME CARE AGENCY TO THE DEPARTMENT. BEGINNING JANUARY 1, 2016, A PERSON SHALL NOT CONDUCT OR MAINTAIN A HOME CARE AGENCY THAT PROVIDES IN-HOME PERSONAL CARE SERVICES WITHOUT HAVING OBTAINED A LICENSE FROM THE DEPARTMENT.

1           (3) A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A  
2 MISDEMEANOR PUNISHABLE BY A FINE OF NOT LESS THAN \$50.00 AND NOT  
3 MORE THAN \$500.00 AND IS SUBJECT TO A CIVIL PENALTY ASSESSED BY THE  
4 DEPARTMENT OF NOT MORE THAN \$10,000.00 FOR EACH VIOLATION OF THIS  
5 SECTION. THE DEPARTMENT SHALL ASSESS, ENFORCE, AND COLLECT THE  
6 PENALTY TO CREDIT TO THE HOME CARE AGENCY CASH FUND. ENFORCEMENT  
7 AND COLLECTION OF THE PENALTY SHALL OCCUR FOLLOWING A DECISION  
8 REACHED IN A HEARING CONDUCTED UNDER CHAPTER 4 OF THE  
9 ADMINISTRATIVE PROCEDURES ACT OF 1969, MCL 24.271 TO 24.287.

10           SEC. 21823. (1) BEGINNING JUNE 1, 2014, A HOME CARE PLACEMENT  
11 AGENCY SHALL NOTIFY THE DEPARTMENT IN WRITING THAT THE HOME CARE  
12 PLACEMENT AGENCY PROVIDES REFERRALS FOR SKILLED HOME HEALTH  
13 SERVICES OR PERSONAL CARE SERVICES AND SHALL ANNUALLY UPDATE THAT  
14 NOTICE. THE DEPARTMENT SHALL MAINTAIN A LIST OF ALL HOME CARE  
15 PLACEMENT AGENCIES AND SHALL MAKE THE LIST ACCESSIBLE TO THE  
16 PUBLIC.

17           (2) A PERSON WHO VIOLATES THIS SECTION IS SUBJECT TO A CIVIL  
18 PENALTY ASSESSED BY THE DEPARTMENT OF NOT LESS THAN \$500.00 PER  
19 YEAR AND NOT MORE THAN \$1,000.00 PER YEAR FOR FAILURE TO PROVIDE  
20 NOTICE REQUIRED BY THIS SECTION TO THE DEPARTMENT. MONEY COLLECTED  
21 FROM A CIVIL PENALTY ASSESSED UNDER THIS SECTION SHALL BE DEPOSITED  
22 IN THE HOME CARE AGENCY CASH FUND.

23           SEC. 21825. IF A HEALTH FACILITY OR AGENCY PROVIDES SKILLED  
24 HOME HEALTH OR PERSONAL CARE SERVICES OUTSIDE OF ITS PREMISES, THE  
25 HEALTH FACILITY OR AGENCY'S LICENSE MUST BE AMENDED TO INCLUDE THE  
26 SKILLED HOME HEALTH OR PERSONAL CARE SERVICES AND THE HEALTH  
27 FACILITY OR AGENCY MUST MEET THE REQUIREMENTS OF THIS PART IN



1 ADDITION TO ANY OTHER LICENSING REQUIREMENT.

2 SEC. 21827. (1) NOT LATER THAN MAY 1, 2014, THE DEPARTMENT  
3 SHALL PROMULGATE RULES TO IMPLEMENT THIS PART ACCORDING TO THE  
4 ADMINISTRATIVE PROCEDURES ACT OF 1969. THE RULES PROMULGATED UNDER  
5 THIS SECTION MUST PROVIDE MINIMUM STANDARDS FOR OPERATING A HOME  
6 CARE AGENCY IN THIS STATE. IN PROMULGATING THESE RULES, THE  
7 DEPARTMENT SHALL CONSIDER THE DIFFERENT REQUIREMENTS APPROPRIATE TO  
8 THE VARIOUS TYPES OF SKILLED HOME HEALTH AND PERSONAL CARE  
9 SERVICES, INCLUDING DIFFERENTIATING REQUIREMENTS FOR PROVIDERS THAT  
10 ARE SUBSTANTIALLY FUNDED THROUGH MEDICARE AND MEDICAID  
11 REIMBURSEMENT, PROVIDERS THAT ARE ALREADY LICENSED UNDER THIS  
12 ARTICLE, AND PROVIDERS THAT ARE SOLELY OR SUBSTANTIALLY PRIVATELY  
13 FUNDED. THIS DIFFERENTIATION MAY CONSIDER THE REQUIREMENTS ALREADY  
14 IMPOSED BY OTHER FEDERAL AND STATE REGULATORY AGENCIES.

15 (2) RULES PROMULGATED UNDER THIS SECTION SHALL INCLUDE, AT A  
16 MINIMUM, ALL OF THE FOLLOWING:

17 (A) INSPECTION OF HOME CARE AGENCIES BY THE DEPARTMENT OR ITS  
18 DESIGNATED REPRESENTATIVE.

19 (B) MINIMUM EDUCATIONAL, TRAINING, AND EXPERIENCE STANDARDS  
20 FOR THE ADMINISTRATOR AND STAFF OF A HOME CARE AGENCY, INCLUDING A  
21 REQUIREMENT THAT THE ADMINISTRATOR AND STAFF BE OF GOOD, MORAL, AND  
22 RESPONSIBLE CHARACTER.

23 (C) REQUIREMENTS FOR DISCLOSURE NOTICES TO BE PROVIDED BY HOME  
24 CARE AGENCIES AND HOME CARE PLACEMENT AGENCIES TO HOME CARE  
25 CONSUMERS CONCERNING THE DUTIES AND EMPLOYMENT STATUS OF THE  
26 INDIVIDUAL PROVIDING SERVICES.

27 (D) INTERMEDIATE ENFORCEMENT REMEDIES AS AUTHORIZED IN THIS

1 PART.

2 (E) A REQUIREMENT AND FORM FOR WRITTEN PLANS, TO BE SUBMITTED  
3 BY HOME HEALTH CARE AGENCIES TO THE DEPARTMENT FOR APPROVAL,  
4 DETAILING THE MEASURES THAT WILL BE TAKEN TO CORRECT VIOLATIONS  
5 FOUND AS A RESULT OF INSPECTIONS.

6 (F) ESTABLISHING OCCURRENCE REPORTING REQUIREMENTS REQUIRED  
7 UNDER THIS PART.

8 (G) FEES FOR HOME CARE AGENCY LICENSURE THAT SHALL NOT EXCEED  
9 \$1,500.00 PER YEAR FOR 2 YEARS FROM THE EFFECTIVE DATE OF FEES  
10 ESTABLISHED BY RULE FOR HOME CARE AGENCIES THAT ARE CERTIFIED  
11 PROVIDERS THROUGH THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID  
12 SERVICES OR THE DEPARTMENT. HOME CARE AGENCY FEES SHALL BE PAYABLE  
13 TO THE HOME CARE AGENCY CASH FUND. THE ANNUAL FEE SHALL INCLUDE A  
14 COMPONENT THAT REFLECTS WHETHER A SURVEY IS PLANNED FOR THE YEAR  
15 BASED ON THE HOME HEALTH CARE AGENCY'S COMPLIANCE HISTORY. THE FEE  
16 SCHEDULE SHALL ALSO BE TIERED TO REFLECT THE DIFFERENCES IN TYPE  
17 AND VOLUME OF SERVICES OF VARIOUS HOME CARE AGENCIES, INCLUDING,  
18 BUT NOT LIMITED TO, THEIR VOLUME OF MEDICAID AND MEDICARE SERVICES.  
19 THE FEE SCHEDULE SHALL ALSO PROVIDE FOR REDUCED FEES FOR HOME CARE  
20 AGENCIES THAT ARE CERTIFIED THROUGH THE FEDERAL CENTERS FOR  
21 MEDICARE AND MEDICAID SERVICES OR THE DEPARTMENT BEFORE SUBMITTING  
22 THE INITIAL LICENSE APPLICATION. THE DEPARTMENT SHALL NOT CHARGE A  
23 DUPLICATE FEE FOR SURVEY WORK CONDUCTED ACCORDING TO ITS ROLE AS  
24 STATE SURVEY AGENCY FOR THE FEDERAL CENTERS FOR MEDICARE AND  
25 MEDICAID SERVICES OR THE DEPARTMENT. NOT LATER THAN JANUARY 1,  
26 2016, THE DEPARTMENT SHALL ISSUE AN INDEPENDENT REPORT DETAILING  
27 THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE ADMINISTRATION OF

1 HOME CARE AGENCY LICENSURE.

2 (H) REQUIREMENTS FOR HOME CARE AGENCIES TO PROVIDE EVIDENCE OF  
3 AND MAINTAIN EITHER LIABILITY INSURANCE COVERAGE OR A SURETY BOND  
4 IN LIEU OF LIABILITY INSURANCE COVERAGE, IN AMOUNTS SET THROUGH  
5 RULES OF THE DEPARTMENT DIRECTOR.

6 SEC. 21829. (1) THE HOME CARE ADVISORY COMMITTEE IS  
7 ESTABLISHED WITHIN THE DEPARTMENT. THE HOME CARE ADVISORY COMMITTEE  
8 SHALL MAKE RECOMMENDATIONS TO THE DEPARTMENT AND THE DEPARTMENT  
9 DIRECTOR CONCERNING THE RULES PROMULGATED ACCORDING TO THIS PART  
10 AND IMPLEMENTATION OF LICENSING HOME CARE AGENCIES.

11 (2) THE HOME CARE ADVISORY COMMITTEE SHALL BE APPOINTED BY THE  
12 DEPARTMENT DIRECTOR. THE HOME CARE ADVISORY COMMITTEE SHALL, AT A  
13 MINIMUM, CONSIST OF REPRESENTATIVES FROM SKILLED HOME HEALTH  
14 SERVICES AGENCIES, REPRESENTATIVES FROM PERSONAL CARE SERVICES  
15 AGENCIES, MEMBERS OF THE DISABLED COMMUNITY WHO ARE HOME CARE  
16 CONSUMERS, SENIORS OR REPRESENTATIVES OF SENIORS WHO ARE HOME CARE  
17 CONSUMERS, PROVIDERS OF MEDICAID SERVICES, PROVIDERS OF IN-HOME  
18 SUPPORT SERVICES, AND REPRESENTATIVES OF THE DEPARTMENT, THE  
19 DEPARTMENT OF COMMUNITY HEALTH, AND THE DEPARTMENT OF HUMAN  
20 SERVICES. MEMBERS OF THE HOME CARE ADVISORY COMMITTEE SHALL SERVE  
21 AT THE PLEASURE OF THE APPOINTING AUTHORITY ON A VOLUNTARY BASIS  
22 AND SHALL SERVE WITHOUT COMPENSATION.

23 SEC. 21831. (1) THE HOME CARE AGENCY CASH FUND IS CREATED  
24 WITHIN THE STATE TREASURY.

25 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM  
26 ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL  
27 DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT

1 TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

2 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL  
3 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

4 (4) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE FUND FOR  
5 AUDITING PURPOSES.

6 (5) THE DEPARTMENT OF SHALL EXPEND MONEY FROM THE FUND, UPON  
7 APPROPRIATION, ONLY AS PROVIDED IN THIS PART.

8 SEC. 21833. AFTER BEING LICENSED UNDER THIS PART, AN  
9 APPLICATION FOR LICENSE RENEWAL TO OPERATE A HOME CARE AGENCY MUST  
10 BE SUBMITTED TO THE DEPARTMENT ANNUALLY UPON FORMS AND IN THE  
11 MANNER AS PRESCRIBED BY THE DEPARTMENT.

12 SEC. 21835. (1) THE DEPARTMENT SHALL INVESTIGATE AND REVIEW  
13 EACH ORIGINAL APPLICATION AND EACH RENEWAL APPLICATION FOR A  
14 LICENSE. THE DEPARTMENT SHALL DETERMINE AN APPLICANT'S COMPLIANCE  
15 WITH THE RULES ADOPTED UNDER THIS PART BEFORE A LICENSE IS ISSUED  
16 OR RENEWED. A CERTIFIED HOME CARE AGENCY THAT APPLIES FOR A LICENSE  
17 NOT LATER THAN JUNE 1, 2014 IS EXEMPT FROM LICENSURE INSPECTION  
18 BEFORE BEING ISSUED THE INITIAL LICENSE. THE DEPARTMENT SHALL MAKE  
19 INSPECTIONS AS IT CONSIDERS NECESSARY TO ENSURE THAT THE HEALTH,  
20 SAFETY, AND WELFARE OF THE HOME CARE CONSUMERS ARE BEING PROTECTED.  
21 INSPECTIONS OF A HOME CARE CONSUMER'S HOME ARE SUBJECT TO THE  
22 CONSENT OF THE HOME CARE CONSUMER TO ACCESS THE PROPERTY. THE HOME  
23 CARE AGENCY SHALL SUBMIT IN WRITING, IN A FORM PRESCRIBED BY THE  
24 DEPARTMENT, A PLAN DETAILING THE MEASURES THAT WILL BE TAKEN TO  
25 CORRECT ANY VIOLATIONS FOUND BY THE DEPARTMENT AS A RESULT OF  
26 INSPECTIONS UNDERTAKEN UNDER THIS PART.

27 (2) THE DEPARTMENT SHALL KEEP ALL MEDICAL RECORDS OBTAINED

1 DURING AN INSPECTION OR INVESTIGATION OF A HOME CARE AGENCY  
2 CONFIDENTIAL, AND THE MEDICAL RECORDS ARE EXEMPT FROM DISCLOSURE  
3 EXCEPT AS OTHERWISE REQUIRED BY LAW.

4 SEC. 21837. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS  
5 (2) AND (3), THE DEPARTMENT SHALL ISSUE OR RENEW A LICENSE AFTER IT  
6 DETERMINES THAT THE APPLICANT OR LICENSEE IS IN COMPLIANCE WITH THE  
7 REQUIREMENTS OF THIS PART AND THE RULES PROMULGATED UNDER THIS  
8 PART. EXCEPT FOR PROVISIONAL LICENSES ISSUED IN ACCORDANCE WITH  
9 SUBSECTIONS (2) AND (3), A LICENSE ISSUED OR RENEWED UNDER THIS  
10 SECTION EXPIRES 1 YEAR AFTER THE DATE OF ISSUANCE OR RENEWAL.

11 (2) THE DEPARTMENT MAY ISSUE A PROVISIONAL LICENSE TO AN  
12 APPLICANT FOR THE PURPOSE OF OPERATING A HOME CARE AGENCY FOR A  
13 PERIOD OF 90 DAYS IF THE APPLICANT IS TEMPORARILY UNABLE TO CONFORM  
14 TO ALL OF THE MINIMUM STANDARDS REQUIRED UNDER THIS PART. NO  
15 LICENSE SHALL BE ISSUED TO AN APPLICANT IF OPERATING THE  
16 APPLICANT'S HOME CARE AGENCY WILL ADVERSELY AFFECT THE HEALTH,  
17 SAFETY, OR WELFARE OF THE HOME CARE CONSUMERS OF THAT HOME CARE  
18 AGENCY. AS A CONDITION OF OBTAINING A PROVISIONAL LICENSE, THE  
19 APPLICANT SHALL SHOW PROOF TO THE DEPARTMENT THAT ATTEMPTS ARE  
20 BEING MADE TO CONFORM AND COMPLY WITH APPLICABLE STANDARDS. NO  
21 PROVISIONAL LICENSE SHALL BE GRANTED BEFORE COMPLETION OF A  
22 CRIMINAL HISTORY CHECK REQUIRED UNDER THIS PART AND A FINDING IN  
23 ACCORDANCE WITH SECTION 20173A. A SECOND PROVISIONAL LICENSE MAY BE  
24 ISSUED, FOR A SIMILAR PERIOD OF TIME AND SIMILAR FEE, TO EFFECT  
25 COMPLIANCE. NO FURTHER PROVISIONAL LICENSES MAY BE ISSUED FOR THE  
26 CURRENT YEAR AFTER THE SECOND ISSUANCE.

27 (3) THE DEPARTMENT MAY ISSUE A PROVISIONAL LICENSE FOR A

1 PERIOD OF 90 DAYS TO A HOME HEALTH CARE AGENCY THAT HAS PREVIOUSLY  
2 APPLIED TO BE A CERTIFIED HOME CARE AGENCY THROUGH THE FEDERAL  
3 CENTERS FOR MEDICARE AND MEDICAID SERVICES BUT HAVE NOT RECEIVED AN  
4 ACCEPTANCE OR REJECTION. NO PROVISIONAL LICENSE SHALL BE GRANTED  
5 BEFORE COMPLETION OF A CRIMINAL HISTORY CHECK REQUIRED UNDER THIS  
6 PART AND A FINDING IN ACCORDANCE WITH SECTION 20173A. A SECOND  
7 PROVISIONAL LICENSE MAY BE ISSUED, FOR A SIMILAR PERIOD OF TIME AND  
8 SIMILAR FEE, TO EFFECT COMPLIANCE. NO FURTHER PROVISIONAL LICENSES  
9 MAY BE ISSUED FOR THE CURRENT YEAR AFTER THE SECOND ISSUANCE.

10 SEC. 21839. (1) NOTICE OF INTENT TO DENY, LIMIT, SUSPEND, OR  
11 REVOKE A LICENSE SHALL BE GIVEN BY CERTIFIED MAIL OR PERSONAL  
12 SERVICE, SHALL SET FORTH THE PARTICULAR REASONS FOR THE PROPOSED  
13 ACTION, AND SHALL FIX A DATE, NOT LESS THAN 30 DAYS AFTER THE DATE  
14 OF SERVICE, ON WHICH THE APPLICANT OR LICENSEE SHALL BE GIVEN THE  
15 OPPORTUNITY FOR A HEARING BEFORE THE DIRECTOR OR THE DIRECTOR'S  
16 AUTHORIZED REPRESENTATIVE. THE HEARING SHALL BE CONDUCTED IN  
17 ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURES ACT OF 1969 AND RULES  
18 PROMULGATED BY THE DEPARTMENT. A FULL AND COMPLETE RECORD SHALL BE  
19 KEPT OF THE PROCEEDING AND SHALL BE TRANSCRIBED WHEN REQUESTED BY  
20 AN INTERESTED PARTY, WHO SHALL PAY THE COST OF PREPARING THE  
21 TRANSCRIPT.

22 (2) ON THE BASIS OF A HEARING OR ON THE DEFAULT OF THE  
23 APPLICANT OR LICENSEE, THE DEPARTMENT MAY ISSUE, DENY, LIMIT,  
24 SUSPEND, OR REVOKE A LICENSE. A COPY OF THE DETERMINATION SHALL BE  
25 SENT BY CERTIFIED MAIL OR SERVED PERSONALLY UPON THE APPLICANT OR  
26 LICENSEE. THE DETERMINATION BECOMES FINAL 30 DAYS AFTER IT IS  
27 MAILED OR SERVED, UNLESS THE APPLICANT OR LICENSEE WITHIN THE 30

1 DAYS APPEALS THE DECISION TO THE CIRCUIT COURT IN THE COUNTY OF  
2 JURISDICTION OR TO THE INGHAM COUNTY CIRCUIT COURT.

3 (3) THE DEPARTMENT MAY ESTABLISH PROCEDURES, HOLD HEARINGS,  
4 ADMINISTER OATHS, ISSUE SUBPOENAS, OR ORDER TESTIMONY TO BE TAKEN  
5 AT A HEARING OR BY DEPOSITION IN A PROCEEDING PENDING AT ANY STAGE  
6 OF THE PROCEEDING. A PERSON MAY BE COMPELLED TO APPEAR AND TESTIFY  
7 AND TO PRODUCE BOOKS, PAPERS, OR DOCUMENTS IN A PROCEEDING.

8 (4) IN CASE OF DISOBEDIENCE OF A SUBPOENA, A PARTY TO A  
9 HEARING MAY INVOKE THE AID OF THE CIRCUIT COURT OF THE JURISDICTION  
10 IN WHICH THE HEARING IS HELD TO REQUIRE THE ATTENDANCE AND  
11 TESTIMONY OF WITNESSES. THE CIRCUIT COURT MAY ISSUE AN ORDER  
12 REQUIRING AN INDIVIDUAL TO APPEAR AND GIVE TESTIMONY. FAILURE TO  
13 OBEY THE ORDER OF THE CIRCUIT COURT MAY BE PUNISHED AS CONTEMPT BY  
14 THE COURT.

15 SEC. 21841. (1) THE DEPARTMENT MAY IMPOSE INTERMEDIATE  
16 RESTRICTIONS OR CONDITIONS ON A LICENSEE THAT MAY INCLUDE 1 OR MORE  
17 OF THE FOLLOWING:

18 (A) RETAINING A CONSULTANT TO ADDRESS CORRECTIVE MEASURES.

19 (B) MONITORING BY THE DEPARTMENT FOR A SPECIFIC PERIOD.

20 (C) PROVIDING ADDITIONAL TRAINING TO EMPLOYEES, OWNERS, OR  
21 OPERATORS OF THE HOME CARE AGENCY.

22 (D) COMPLYING WITH A DIRECTED WRITTEN PLAN TO CORRECT A  
23 VIOLATION.

24 (E) PAYING A CIVIL FINE NOT TO EXCEED \$10,000.00 PER CALENDAR  
25 YEAR FOR ALL VIOLATIONS.

26 (2) IF THE DEPARTMENT IMPOSES AN INTERMEDIATE RESTRICTION OR  
27 CONDITION THAT IS NOT A RESULT OF A SERIOUS AND IMMEDIATE THREAT TO

1 HEALTH OR WELFARE, THE LICENSEE SHALL RECEIVE WRITTEN NOTICE OF THE  
2 RESTRICTION OR CONDITION. NOT LATER THAN 10 DAYS AFTER THE DATE THE  
3 NOTICE IS RECEIVED FROM THE DEPARTMENT, THE LICENSEE SHALL SUBMIT A  
4 WRITTEN PLAN THAT INCLUDES THE TIME FRAME FOR COMPLETING THE PLAN  
5 AND ADDRESSES THE RESTRICTION OR CONDITION SPECIFIED.

6 (3) IF THE DEPARTMENT IMPOSES AN INTERMEDIATE RESTRICTION OR  
7 CONDITION THAT IS THE RESULT OF A SERIOUS AND IMMEDIATE THREAT TO  
8 HEALTH, SAFETY, OR WELFARE, THE DEPARTMENT SHALL NOTIFY THE  
9 LICENSEE IN WRITING, BY TELEPHONE, OR IN PERSON DURING AN ON-SITE  
10 VISIT. THE LICENSEE SHALL REMEDY THE CIRCUMSTANCES CREATING HARM OR  
11 POTENTIAL HARM IMMEDIATELY UPON RECEIVING NOTICE OF THE RESTRICTION  
12 OR CONDITION. IF THE DEPARTMENT PROVIDES NOTICE OF A RESTRICTION OR  
13 CONDITION BY TELEPHONE OR IN PERSON, THE DEPARTMENT SHALL SEND  
14 WRITTEN CONFIRMATION OF THE RESTRICTION OR CONDITION TO THE  
15 LICENSEE WITHIN 2 BUSINESS DAYS.

16 (4) AFTER SUBMISSION OF AN APPROVED WRITTEN PLAN, A LICENSEE  
17 MAY APPEAL ANY INTERMEDIATE RESTRICTION OR CONDITION IMPOSED ON THE  
18 LICENSE TO THE DEPARTMENT THROUGH AN INFORMAL REVIEW PROCESS AS  
19 ESTABLISHED BY THE DEPARTMENT. IF THE RESTRICTION OR CONDITION  
20 REQUIRES PAYMENT OF A CIVIL FINE, THE LICENSEE MAY REQUEST AND THE  
21 DEPARTMENT SHALL GRANT A STAY IN PAYMENT OF THE FINE UNTIL FINAL  
22 DISPOSITION OF THE RESTRICTION OR CONDITION. IF A LICENSEE IS NOT  
23 SATISFIED WITH THE RESULT OF THE INFORMAL REVIEW OR CHOOSES NOT TO  
24 SEEK INFORMAL REVIEW, NO INTERMEDIATE RESTRICTION OR CONDITION ON  
25 THE LICENSEE SHALL BE IMPOSED UNTIL AFTER AN OPPORTUNITY FOR A  
26 HEARING HAS BEEN AFFORDED THE LICENSEE.

27 (5) IF THE DEPARTMENT ASSESSES A CIVIL FINE UNDER THIS



1 SECTION, MONEY RECEIVED BY THE DEPARTMENT SHALL BE TRANSMITTED TO  
2 THE STATE TREASURER, WHO SHALL CREDIT THE MONEY TO THE HOME CARE  
3 AGENCY CASH FUND.

4 (6) CIVIL FINES COLLECTED UNDER THIS SECTION SHALL BE USED FOR  
5 EXPENSES RELATED TO ANY OF THE FOLLOWING:

6 (A) CONTINUING MONITORING REQUIRED UNDER THIS SECTION.

7 (B) EDUCATION FOR LICENSEES TO AVOID RESTRICTIONS OR  
8 CONDITIONS OR FACILITATE THE APPLICATION PROCESS OR THE CHANGE OF  
9 OWNERSHIP PROCESS.

10 (C) EDUCATION FOR HOME CARE CONSUMERS AND THEIR FAMILIES ABOUT  
11 RESOLVING PROBLEMS WITH A HOME CARE AGENCY, RIGHTS OF HOME CARE  
12 CONSUMERS, AND RESPONSIBILITIES OF HOME CARE AGENCIES.

13 (D) PROVIDING TECHNICAL ASSISTANCE TO ANY HOME CARE AGENCY FOR  
14 THE PURPOSE OF COMPLYING WITH CHANGES IN RULES, STATE LAW, OR  
15 FEDERAL LAW.

16 (E) MONITORING AND ASSISTING IN THE TRANSITION OF HOME CARE  
17 CONSUMERS TO OTHER HOME CARE AGENCIES, WHEN THE TRANSITION IS A  
18 RESULT OF THE REVOCATION OF A LICENSE OR OTHER APPROPRIATE MEDICAL  
19 SERVICES.

20 (F) MAINTAINING THE OPERATION OF A HOME CARE AGENCY PENDING  
21 CORRECTION OF VIOLATIONS, AS DETERMINED NECESSARY BY THE  
22 DEPARTMENT.

23 SEC. 21843. (1) A HOME CARE AGENCY SHALL NOT EMPLOY, CONTRACT  
24 WITH, OR GRANT CLINICAL PRIVILEGES TO AN INDIVIDUAL WHO REGULARLY  
25 HAS DIRECT ACCESS TO OR PROVIDES DIRECT SERVICES TO PATIENTS OR  
26 CLIENTS UNLESS A CRIMINAL HISTORY CHECK OF THAT INDIVIDUAL HAS BEEN  
27 CONDUCTED IN COMPLIANCE WITH SECTION 20173A. AN INDIVIDUAL

1 DISQUALIFIED OR DENIED EMPLOYMENT BY A HOME CARE AGENCY BASED ON A  
2 CRIMINAL HISTORY CHECK CONDUCTED UNDER THIS SECTION MAY APPEAL AS  
3 PROVIDED IN SECTION 20173B.

4 (2) THE DEPARTMENT SHALL REVOKE OR REFUSE TO RENEW THE LICENSE  
5 OF A HOME CARE AGENCY IF THE OWNER OR LICENSEE HAS BEEN CONVICTED  
6 OF A FELONY OR MISDEMEANOR INVOLVING MORAL TURPITUDE OR INVOLVING  
7 CONDUCT THAT THE DEPARTMENT DETERMINES COULD POSE A RISK TO THE  
8 HEALTH, SAFETY, OR WELFARE OF THE HOME CARE CONSUMER. A REVOCATION  
9 OR REFUSAL UNDER THIS SECTION SHALL BE MADE ONLY AFTER A HEARING IS  
10 PROVIDED IN ACCORDANCE WITH THIS PART.