

SENATE BILL No. 221

March 2, 2011, Introduced by Senators JANSEN, SCHUITMAKER, PROOS, PAPPAGEORGE, BIEDA, GLEASON, EMMONS and MARLEAU and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 20106, 20108, 20115, and 20142 (MCL 333.20106, 333.20108, 333.20115, and 333.20142), section 20106 as amended by 2000 PA 253, section 20108 as amended by 1990 PA 179, and section 20115 as amended by 1999 PA 206, and by adding part 218.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (a) An ambulance operation, aircraft transport operation,
4 nontransport prehospital life support operation, or medical first
5 response service.

6 (b) A clinical laboratory.

- 1 (c) A county medical care facility.
2 (d) A freestanding surgical outpatient facility.
3 (e) A health maintenance organization.
4 (f) A home for the aged.
5 (g) A hospital.
6 (h) A nursing home.
7 (i) A hospice.
8 (j) A hospice residence.
9 (k) A facility or agency listed in subdivisions (a) to (h)
10 located in a university, college, or other educational institution.

11 **(l) AN IN-HOME SERVICES AGENCY.**

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

15 (3) "Home for the aged" means a supervised personal care
16 facility, other than a hotel, adult foster care facility, hospital,
17 nursing home, or county medical care facility that provides room,
18 board, and supervised personal care to 21 or more unrelated,
19 nontransient, individuals 60 years of age or older. Home for the
20 aged includes a supervised personal care facility for 20 or fewer
21 individuals 60 years of age or older if the facility is operated in
22 conjunction with and as a distinct part of a licensed nursing home.

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

27 (5) "Hospital" means a facility offering inpatient, overnight

1 care, and services for observation, diagnosis, and active treatment
2 of an individual with a medical, surgical, obstetric, chronic, or
3 rehabilitative condition requiring the daily direction or
4 supervision of a physician. Hospital does not include a mental
5 health hospital licensed or operated by the department of community
6 health or a hospital operated by the department of corrections.

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

12 Sec. 20108. (1) **"IN-HOME SERVICES AGENCY" MEANS THAT TERM AS**
13 **DEFINED IN SECTION 21809.**

14 (2) ~~(1)~~—"Intermediate care facility" means a hospital long-
15 term care unit, nursing home, county medical care facility, or
16 other nursing care facility, or distinct part thereof, certified by
17 the department to provide intermediate care or basic care that is
18 less than skilled nursing care but more than room and board.

19 (3) ~~(2)~~—"License" means an authorization, annual or as
20 otherwise specified, granted by the department and evidenced by a
21 certificate of licensure or permit granting permission to a person
22 to establish or maintain and operate, or both, a health facility or
23 agency. For purposes of part 209, "license" includes a license
24 issued to an individual under that part.

25 (4) ~~(3)~~—"Licensee" means the holder of a license or permit to
26 establish or maintain and operate, or both, a health facility or
27 agency. For purposes of part 209, "licensee" includes an individual

1 licensed under that part.

2 (5) ~~(4)~~—"Limited license" means a provisional license or
3 temporary permit or a license otherwise limited as prescribed by
4 the department.

5 (6) ~~(5)~~—"Medically contraindicated" means, with reference to
6 nursing homes only, having a substantial adverse effect on the
7 patient's physical health, as determined by the attending
8 physician, which effect is explicitly stated in writing with the
9 reasons ~~therefor~~ **FOR THAT EFFECT** in the patient's medical record.

10 (7) ~~(6)~~—"Medical first response service" means that term as
11 defined in section 20906.

12 (8) ~~(7)~~—"Nontransport prehospital life support operation"
13 means that term as defined in section 20908.

14 Sec. 20115. (1) The department may promulgate rules to further
15 define the term "health facility or agency" and the definition of a
16 health facility or agency listed in section 20106 as required to
17 implement this article. The department may define a specific
18 organization as a health facility or agency for the sole purpose of
19 certification authorized under this article. For purpose of
20 certification only, an organization defined in section 20106(5),
21 20108(1) **OR (2)**, or 20109(4) is considered a health facility or
22 agency. The term "health facility or agency" does not mean a
23 visiting nurse service or home aide service conducted by and for
24 the adherents of a church or religious denomination for the purpose
25 of providing service for those who depend upon spiritual means
26 through prayer alone for healing.

27 (2) The department shall promulgate rules to differentiate a

1 freestanding surgical outpatient facility from a private office of
2 a physician, dentist, podiatrist, or other health professional. The
3 department shall specify in the rules that a facility including,
4 but not limited to, a private practice office described in this
5 subsection in which 50% or more of the patients annually served at
6 the facility undergo an abortion must be licensed under this
7 article as a freestanding surgical outpatient facility.

8 (3) The department shall promulgate rules that in effect
9 republish R 325.3826, R 325.3832, R 325.3835, R 325.3857, R
10 325.3866, R 325.3867, and R 325.3868 of the Michigan administrative
11 code, but shall include in the rules standards for a freestanding
12 surgical outpatient facility in which 50% or more of the patients
13 annually served in the freestanding surgical outpatient facility
14 undergo an abortion. The department shall assure that the standards
15 are consistent with the most recent United States supreme court
16 decisions regarding state regulation of abortions.

17 (4) Subject to section 20145 and part 222, the department may
18 modify or waive 1 or more of the rules contained in R 325.3801 to R
19 325.3877 of the Michigan administrative code regarding construction
20 or equipment standards, or both, for a freestanding surgical
21 outpatient facility in which 50% or more of the patients annually
22 served in the freestanding surgical outpatient facility undergo an
23 abortion, if both of the following conditions are met:

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

27 (b) The department makes a determination that the existing

1 construction or equipment conditions, or both, within the
2 freestanding surgical outpatient facility are adequate to preserve
3 the health and safety of the patients and employees of the
4 freestanding surgical outpatient facility or that the construction
5 or equipment conditions, or both, can be modified to adequately
6 preserve the health and safety of the patients and employees of the
7 freestanding surgical outpatient facility without meeting the
8 specific requirements of the rules.

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

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

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

18 (3) An applicant or a licensee under part 213, ~~or~~**OR 218**
19 shall disclose the names, addresses, principal occupations, and
20 official positions of all ~~persons~~**INDIVIDUALS** who have an ownership
21 interest in the health facility or agency. If the health facility
22 or agency is located on or in leased real estate, the applicant or
23 licensee shall disclose the name of the lessor and any direct or
24 indirect interest the applicant or licensee has in the lease other
25 than as lessee. A change in ownership shall be reported to the
26 director not less than 15 days before the change occurs, except
27 that a person purchasing stock of a company registered pursuant to

1 the securities exchange act of 1934, ~~15 U.S.C. 78a to 78k~~ **15 USC**
2 **78A TO 7800**, is exempt from disclosing ownership in the facility. A
3 person required to file a beneficial ownership report pursuant to
4 section 16(a) of the securities exchange act of 1934, ~~15 U.S.C. USC~~
5 78p shall file with the department information relating to
6 securities ownership required by the department rule or order. An
7 applicant or licensee proposing a sale of a nursing home to another
8 person shall provide the department with written, advance notice of
9 the proposed sale. The applicant or licensee and the other parties
10 to the sale shall arrange to meet with specified department
11 representatives and shall obtain before the sale a determination of
12 the items of noncompliance with applicable law and rules which
13 shall be corrected. The department shall notify the respective
14 parties of the items of noncompliance prior to the change of
15 ownership and shall indicate that the items of noncompliance must
16 be corrected as a condition of issuance of a license to the new
17 owner. The department may accept reports filed with the securities
18 and exchange commission relating to the filings. A person who
19 violates this subsection is guilty of a misdemeanor, punishable by
20 a fine of not more than \$1,000.00 for each violation.

21 (4) An applicant or licensee under part 217 shall disclose the
22 names and business addresses of suppliers who furnish goods or
23 services to an individual nursing home or a group of nursing homes
24 under common ownership, the aggregate charges for which exceed
25 \$5,000.00 in a 12-month period which includes a month in a nursing
26 home's current fiscal year. An applicant or licensee shall disclose
27 the names, addresses, principal occupations, and official positions

1 of all ~~persons~~**INDIVIDUALS** who have an ownership interest in a
2 business ~~which~~**THAT** furnishes goods or services to an individual
3 nursing home or to a group of nursing homes under common ownership,
4 if both of the following apply:

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

8 (b) The aggregate charges for the goods or services purchased
9 exceeds \$5,000.00 in a 12-month period which includes a month in
10 the nursing home's current fiscal year.

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

16 PART 218. IN-HOME SERVICES AGENCIES

17 SEC. 21801. (1) FOR PURPOSES OF THIS PART, THE WORDS AND
18 PHRASES DEFINED IN SECTIONS 21803 TO 21815 HAVE THE MEANINGS
19 ASCRIBED TO THEM IN THOSE SECTIONS.

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

23 SEC. 21803. (1) "ADMINISTRATOR" MEANS AN INDIVIDUAL
24 RESPONSIBLE FOR MANAGING THE OPERATION OF AN IN-HOME SERVICES
25 AGENCY.

26 (2) "BOARD" MEANS THE MICHIGAN BOARD OF IN-HOME SERVICES
27 AGENCY LICENSING CREATED IN SECTION 21833.

1 SEC. 21805. (1) "DIRECTOR OF CLINICAL SERVICES" MEANS AN
2 INDIVIDUAL RESPONSIBLE FOR NURSING, THERAPY, NUTRITIONAL, SOCIAL,
3 AND RELATED SERVICES THAT SUPPORT THE PLAN OF CARE PROVIDED BY AN
4 IN-HOME SERVICES AGENCY.

5 (2) "FAMILY" MEANS INDIVIDUALS WHO ARE IMPORTANT TO, AND
6 DESIGNATED BY, THE PATIENT OR CLIENT AND WHO NEED NOT BE RELATIVES.

7 SEC. 21807. (1) "HOME HEALTH AGENCY-CERTIFIED" MEANS AN
8 ENROLLED MEDICARE PROVIDER ORGANIZATION OR PART OF THAT
9 ORGANIZATION STAFFED AND EQUIPPED TO PROVIDE SKILLED NURSING AND AT
10 LEAST 1 THERAPEUTIC SERVICE, INCLUDING PHYSICAL THERAPY,
11 OCCUPATIONAL THERAPY, OR SPEECH THERAPY, EITHER DIRECTLY OR THROUGH
12 A CONTRACT ARRANGEMENT TO PATIENTS OR CLIENTS IN THEIR PLACES OF
13 TEMPORARY OR PERMANENT RESIDENCE. A HOME HEALTH AGENCY-CERTIFIED
14 MAY ALSO PROVIDE OTHER HEALTH-RELATED SERVICES INCLUDING SOCIAL
15 WORK, NUTRITIONAL SUPPORT, OR HOME HEALTH AIDES TO PROTECT AND
16 MAINTAIN PATIENTS OR CLIENTS IN THEIR PLACES OF RESIDENCE.

17 (2) "HOME HEALTH AIDE SERVICES" MEANS SERVICES PROVIDED BY A
18 HOME HEALTH AGENCY-CERTIFIED OR PRIVATE DUTY HOME CARE AGENCY AND,
19 IF REQUIRED BY A RULE OR UNDER A CONTRACT, PROVIDED UNDER THE
20 SUPERVISION OF A REGISTERED NURSE, PHYSICAL THERAPIST, OCCUPATIONAL
21 THERAPIST, SPEECH THERAPIST, OR RESPIRATORY THERAPIST WHO IS
22 EMPLOYED BY OR UNDER CONTRACT TO THE HOME HEALTH AGENCY-CERTIFIED
23 OR PRIVATE DUTY HOME CARE AGENCY. HOME HEALTH AIDE SERVICES INCLUDE
24 AMBULATION AND EXERCISE, ASSISTANCE WITH SELF-ADMINISTERED
25 MEDICATIONS, REPORTING CHANGES IN A PATIENT'S OR CLIENT'S CONDITION
26 AND NEEDS, COMPLETING APPROPRIATE RECORDS, AND PERSONAL CARE OR
27 HOMEMAKER SERVICES.

1 (3) "HOME HEALTH SERVICES" MEANS SERVICES THAT INCLUDE, BUT
2 ARE NOT LIMITED TO, NURSING SERVICES, HOME HEALTH AIDE SERVICES,
3 PHYSICAL THERAPY SERVICES, OCCUPATIONAL THERAPY SERVICES, SPEECH
4 THERAPY SERVICES, RESPIRATORY THERAPY SERVICES, NUTRITIONAL
5 SERVICES, MEDICAL SOCIAL SERVICES, AND HOME MEDICAL SUPPLIES OR
6 EQUIPMENT SERVICES.

7 SEC. 21809. (1) "HOME MEDICAL EQUIPMENT SUPPLIER" MEANS AN
8 ORGANIZATION THAT FURNISHES DURABLE MEDICAL EQUIPMENT, PROSTHETICS,
9 AND ORTHOTICS SUPPLIES AND SERVICES, EITHER DIRECTLY OR THROUGH A
10 CONTRACTUAL ARRANGEMENT, TO PATIENTS OR CLIENTS IN THEIR PLACES OF
11 RESIDENCE. TO BE LICENSED UNDER THIS PART, A HOME MEDICAL EQUIPMENT
12 SUPPLIER SHALL COMPLY WITH STANDARDS SPECIFIED IN THE GENERAL
13 LICENSURE REGULATIONS, INCLUDING, BUT NOT LIMITED TO, COMPLIANCE
14 WITH CENTERS FOR MEDICARE AND MEDICAID SUPPLIER QUALITY STANDARDS
15 GOVERNING THE SAFETY OF HOME MEDICAL EQUIPMENT SERVICES SUPPLIER
16 FACILITIES, THE SAFETY AND QUALITY OF HOME MEDICAL EQUIPMENT, AND
17 THE SAFETY, QUALITY, AND EFFECTIVENESS OF HOME MEDICAL EQUIPMENT
18 SERVICE PROCEDURES; AND SHALL MAINTAIN A PHYSICAL FACILITY AND
19 MEDICAL EQUIPMENT INVENTORY.

20 (2) "HOME MEDICAL SUPPLIES OR EQUIPMENT SERVICES" MEANS
21 DIAGNOSTIC, TREATMENT, AND MONITORING EQUIPMENT AND SUPPLIES
22 PROVIDED FOR THE DIRECT CARE OF PATIENTS OR CLIENTS. HOME MEDICAL
23 SUPPLIES OR EQUIPMENT SERVICES INCLUDE, BUT ARE NOT LIMITED TO, THE
24 DELIVERY, INSTALLATION, MAINTENANCE, REPLACEMENT OF, OR INSTRUCTION
25 IN THE USE OF MEDICAL EQUIPMENT AND RELATED SUPPLIES USED BY A
26 PATIENT OR CLIENT.

27 (3) "IN-HOME SERVICES AGENCY" MEANS AN ORGANIZATION THAT IS

1 REQUIRED UNDER THIS PART TO BE LICENSED TO ADMINISTER OR PROVIDE
2 HOME HEALTH SERVICES OR PRIVATE DUTY HOME CARE SERVICES DIRECTLY OR
3 THROUGH A CONTRACTUAL ARRANGEMENT TO PATIENTS OR CLIENTS.

4 SEC. 21811. (1) "ORGANIZATION" MEANS ANY INDIVIDUAL, BUSINESS,
5 FIRM, PARTNERSHIP, CORPORATION, COMPANY, ASSOCIATION, JOINT STOCK
6 ASSOCIATION, OR A PUBLIC OR PRIVATE AGENCY OR ENTITY, OR THE LEGAL
7 SUCCESSOR OF ANY OF THESE, THAT EMPLOYS OR CONTRACTS WITH 2 OR MORE
8 INDIVIDUALS TO PROVIDE HOME HEALTH SERVICES.

9 (2) "PLAN OF CARE" MEANS A WRITTEN DOCUMENT BASED ON AN
10 ASSESSMENT OF A PATIENT'S OR CLIENT'S NEEDS THAT IDENTIFIES HOME
11 HEALTH SERVICES NECESSARY TO MEET THOSE NEEDS.

12 SEC. 21813. (1) "PRIVATE DUTY HOME CARE AGENCY" MEANS A NON-
13 MEDICARE-CERTIFIED ORGANIZATION THAT EMPLOYS, TRAINS, SUPERVISES,
14 MAINTAINS LIABILITY FOR, ARRANGES FOR, AND SCHEDULES EMPLOYEES TO
15 PROVIDE SUPPORTS OR SERVICES, OR BOTH, TO A PATIENT OR CLIENT IN
16 HIS OR HER PLACE OF RESIDENCE OR OTHER ENVIRONMENT FOR WHICH THE
17 ORGANIZATION RECEIVES A FEE, CONSIDERATION, OR COMPENSATION OF ANY
18 KIND. A PRIVATE DUTY HOME CARE AGENCY MAY PROVIDE NONMEDICAL OR
19 MEDICAL SERVICES, OR BOTH, AND DOES NOT INCLUDE A HOSPICE, HOME
20 HEALTH AGENCY-CERTIFIED, OR VOLUNTEER PROVIDER.

21 (2) "PRIVATE DUTY HOME CARE MEDICAL SERVICES" MEANS NON-
22 MEDICARE-CERTIFIED SKILLED SERVICES ORDERED BY A PHYSICIAN,
23 INCLUDING NURSING, OCCUPATIONAL THERAPY, PHYSICAL THERAPY, SPEECH
24 THERAPY, RESPIRATORY THERAPY, OR SOCIAL WORK AND HOME HEALTH AIDE
25 SERVICES.

26 (3) "PRIVATE DUTY HOME CARE NONMEDICAL SERVICES" MEANS
27 SUPPORTS AND SERVICES THAT INCLUDE, BUT ARE NOT LIMITED TO,

1 ASSISTANCE WITH ACTIVITIES OF DAILY LIVING; PERSONAL CARE SUCH AS
2 ASSISTANCE WITH DRESSING, FEEDING, TRANSFERRING, AND PERSONAL
3 HYGIENE TO FACILITATE SELF-CARE; HOMEMAKER ASSISTANCE WITH
4 HOUSEHOLD TASKS INCLUDING HOUSEKEEPING, SHOPPING, MEAL PLANNING AND
5 PREPARATION, AND TRANSPORTATION; RESPITE CARE ASSISTANCE;
6 MEDICATION REMINDERS; AND SUPPORT PROVIDED TO FAMILY.

7 (4) "PRIVATE DUTY HOME CARE SERVICES" MEANS PRIVATE DUTY HOME
8 CARE MEDICAL SERVICES, PRIVATE DUTY HOME CARE NONMEDICAL SERVICES,
9 AND OTHER ASSISTANCE PROVIDED TO PATIENTS OR CLIENTS IN THEIR
10 PLACES OF RESIDENCE OR OTHER ENVIRONMENT.

11 SEC. 21815. (1) "QUALITY IMPROVEMENT" MEANS REVIEWING AND
12 EVALUATING APPROPRIATENESS AND EFFECTIVENESS OF HOME HEALTH
13 SERVICES PROVIDED UNDER THIS PART.

14 (2) "SURVEY" MEANS A VISIT FOR THE PURPOSES OF SURVEY,
15 EVALUATION, AND CONSULTATION CONDUCTED BY THE DEPARTMENT OR OTHER
16 PERSON UNDER SECTION 20155 TO EVALUATE AND MONITOR AN IN-HOME
17 SERVICES AGENCY'S COMPLIANCE WITH THIS ARTICLE.

18 SEC. 21821. (1) BEGINNING JANUARY 1, 2012, A PERSON SHALL NOT
19 ADVERTISE, OPERATE, MANAGE, CONDUCT, OPEN, OR MAINTAIN AN IN-HOME
20 SERVICES AGENCY WITHOUT A LICENSE UNDER THIS PART. BEGINNING
21 JANUARY 1, 2012, THIS PART APPLIES TO A NURSING HOME, HOSPITAL, OR
22 OTHER ORGANIZATION THAT FUNCTIONS AS A HOME HEALTH AGENCY-
23 CERTIFIED, PRIVATE DUTY HOME CARE AGENCY, OR HOME MEDICAL EQUIPMENT
24 SUPPLIER.

25 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A PERSON
26 SHALL NOT USE ANY OF THE FOLLOWING TITLES, WORDS, OR PHRASES:

27 (A) "HOME HEALTH AGENCY-CERTIFIED", "VISITING NURSE", OR "HOME

1 HEALTH SERVICES", IN ITS CORPORATE OR BUSINESS NAME, OR ADVERTISE
2 USING THOSE TITLES, WORDS, OR PHRASES UNLESS LICENSED TO PROVIDE
3 THOSE SERVICES UNDER THIS PART.

4 (B) "PRIVATE DUTY HOME CARE AGENCY", "PRIVATE DUTY HOME CARE
5 SERVICES", OR "PRIVATE DUTY HOME CARE" IN ITS CORPORATE OR BUSINESS
6 NAME, OR ADVERTISE USING THOSE TITLES, WORDS, OR PHRASES UNLESS
7 LICENSED TO PROVIDE THOSE SERVICES UNDER THIS PART.

8 (C) "HOME MEDICAL EQUIPMENT SUPPLIER", "HOME MEDICAL SUPPLIES
9 OR EQUIPMENT SERVICES", OR "DURABLE MEDICAL EQUIPMENT, PROSTHETICS,
10 ORTHOTICS, AND SUPPLIES" IN ITS CORPORATE OR BUSINESS NAME, OR
11 ADVERTISE USING THOSE TITLES, WORDS, OR PHRASES UNLESS LICENSED TO
12 PROVIDE THOSE SERVICES UNDER THIS PART.

13 (D) "IN-HOME SERVICES AGENCY", "IN-HOME SERVICES", OR ANY
14 SIMILAR TITLES, WORDS, OR PHRASES TO INDICATE THAT A PERSON IS A
15 HOME HEALTH AGENCY-CERTIFIED, PRIVATE DUTY HOME CARE AGENCY, OR
16 HOME MEDICAL EQUIPMENT SUPPLIER IN ITS CORPORATE OR BUSINESS NAME,
17 OR ADVERTISE USING THOSE TITLES, WORDS, OR PHRASES UNLESS LICENSED
18 TO PROVIDE THOSE SERVICES UNDER THIS PART.

19 (3) BEGINNING JANUARY 1, 2012, AN IN-HOME SERVICES AGENCY
20 SHALL NOT EMPLOY, CONTRACT WITH, OR GRANT CLINICAL PRIVILEGES TO AN
21 INDIVIDUAL WHO REGULARLY HAS DIRECT ACCESS TO OR PROVIDES DIRECT
22 SERVICES TO PATIENTS OR CLIENTS UNLESS A CRIMINAL HISTORY CHECK OF
23 THAT INDIVIDUAL HAS BEEN CONDUCTED IN COMPLIANCE WITH SECTION
24 20173A. AN INDIVIDUAL DISQUALIFIED OR DENIED EMPLOYMENT BY AN IN-
25 HOME SERVICES AGENCY BASED ON A CRIMINAL HISTORY CHECK CONDUCTED
26 UNDER THIS SECTION MAY APPEAL AS PROVIDED IN SECTION 20173B.

27 SEC. 21823. THE FOLLOWING ARE NOT SUBJECT TO REGULATION FOR

1 THE PURPOSES OF THIS PART:

2 (A) FAMILY PROVIDING HOME HEALTH SERVICES OR HOSPICE CARE.

3 (B) AN ORGANIZATION THAT PROVIDES ONLY MEAL SERVICES TO A
4 PATIENT OR CLIENT IN HIS OR HER PLACE OF PERMANENT OR TEMPORARY
5 RESIDENCE.

6 (C) AN INDIVIDUAL PROVIDING PRIVATE DUTY HOME CARE SERVICES
7 THROUGH A DIRECT AGREEMENT WITH A PATIENT OR CLIENT IN HIS OR HER
8 PLACE OF PERMANENT OR TEMPORARY RESIDENCE.

9 (D) AN ORGANIZATION THAT PROVIDES SERVICES THROUGH A CONTRACT
10 WITH A LICENSED AGENCY AS LONG AS THE CONTRACT ESTABLISHES THAT IT
11 IS THE LICENSED AGENCY THAT HOLDS OVERALL RESPONSIBILITY FOR
12 PATIENT OR CLIENT SERVICES.

13 (E) AN EMPLOYEE OR VOLUNTEER OF A LICENSED AGENCY WHO PROVIDES
14 HOME HEALTH SERVICES ONLY AS AN EMPLOYEE OR VOLUNTEER.

15 (F) EXCEPT AS OTHERWISE PROVIDED IN THIS PART, FACILITIES AND
16 INSTITUTIONS THAT ARE LICENSED UNDER THIS OR ANY OTHER STATE LAW,
17 INCLUDING, BUT NOT LIMITED TO, NURSING HOMES, HOSPITALS, ADULT
18 FOSTER CARE FACILITIES, PSYCHIATRIC FACILITIES OR INTERMEDIATE CARE
19 FACILITIES FOR PEOPLE WITH MENTAL RETARDATION, OR OTHER LICENSED
20 FACILITIES AND INSTITUTIONS.

21 (G) AN INDIVIDUAL PROVIDING CARE TO PATIENTS OR CLIENTS
22 THROUGH A CONTRACT WITH THE DEPARTMENT OF HUMAN SERVICES.

23 (H) NURSING HOMES, HOSPITALS, OR OTHER INSTITUTIONS, AGENCIES,
24 ORGANIZATIONS, OR PERSONS THAT CONTRACT WITH LICENSED HOME HEALTH
25 AGENCY-CERTIFIED, PRIVATE DUTY HOME CARE AGENCY, OR HOME MEDICAL
26 EQUIPMENT SUPPLIER FOR THE DELIVERY OF SERVICES.

27 (I) IN-HOME ASSESSMENTS OF PATIENTS OR CLIENTS THAT DO NOT

1 RESULT IN REGULAR ONGOING CARE OF THAT PATIENT OR CLIENT IN HIS OR
2 HER PLACE OF RESIDENCE.

3 (J) SERVICES CONDUCTED BY AND FOR THE ADHERENTS OF A CHURCH OR
4 RELIGIOUS DENOMINATION THAT RELY UPON SPIRITUAL MEANS ALONE THROUGH
5 PRAYER FOR HEALING IN ACCORDANCE WITH THE TENETS AND PRACTICES OF
6 SUCH CHURCH OR RELIGIOUS DENOMINATION AND THE BONA FIDE RELIGIOUS
7 BELIEFS GENUINELY HELD BY SUCH ADHERENTS.

8 (K) A MEDICARE-APPROVED DIALYSIS CENTER OPERATING A MEDICARE-
9 APPROVED HOME DIALYSIS PROGRAM.

10 (l) A PERSON PROVIDING CASE MANAGEMENT SERVICES. FOR THE
11 PURPOSES OF THIS SUBDIVISION, "CASE MANAGEMENT" MEANS THE
12 ASSESSMENT, COORDINATION, AUTHORIZATION, PLANNING, TRAINING, AND
13 MONITORING OF HOME HEALTH AND HOME CARE AND DOES NOT INCLUDE THE
14 DIRECT PROVISION OF CARE TO A PATIENT OR CLIENT.

15 (M) A PERSON WHO PROVIDES HOME CARE SERVICES WITHOUT
16 COMPENSATION.

17 SEC. 21825. (1) IN ADDITION TO ANY OTHER REQUIREMENT FOR
18 APPLICATION FOR LICENSURE UNDER PART 201, AN APPLICANT FOR AN IN-
19 HOME SERVICES AGENCY LICENSE SHALL DO ALL OF THE FOLLOWING:

20 (A) DEMONSTRATE ABILITY TO COMPLY WITH THIS PART AND THE RULES
21 PROMULGATED UNDER THIS PART.

22 (B) COOPERATE WITH ANY ON-SITE SURVEY.

23 (C) PROVIDE EVIDENCE OF AND MAINTAIN PROFESSIONAL LIABILITY,
24 PUBLIC LIABILITY, AND PROPERTY DAMAGE INSURANCE IN AN AMOUNT
25 ESTABLISHED BY THE DEPARTMENT, BASED ON INDUSTRY STANDARDS.

26 (D) FILE WITH THE DEPARTMENT A LIST OF THE HOME HEALTH
27 SERVICES, PRIVATE DUTY HOME CARE SERVICES, AND HOME MEDICAL

1 SUPPLIES OR EQUIPMENT SERVICES PROVIDED DIRECTLY AND UNDER
2 CONTRACT.

3 (E) PAY TO THE DEPARTMENT THE LICENSE FEE REQUIRED UNDER
4 SECTION 21829.

5 (2) NOTWITHSTANDING SECTIONS 20142 AND 20164, A LICENSE UNDER
6 THIS PART IS TRANSFERABLE DUE TO CHANGE IN OWNERSHIP IF APPROVED BY
7 THE DEPARTMENT. A LICENSEE SHALL SUBMIT AN APPLICATION FOR A
8 TRANSFER DUE TO CHANGE IN OWNERSHIP NOT LESS THAN 30 DAYS BEFORE
9 THE TRANSFER IS SCHEDULED TO OCCUR. SUBJECT TO SECTION 21829, THE
10 DEPARTMENT SHALL CHARGE A REASONABLE FEE FOR PROCESSING AN
11 APPLICATION FOR A TRANSFER DUE TO CHANGE IN OWNERSHIP. THE
12 DEPARTMENT SHALL ESTABLISH A TRANSFER APPROVAL PROCESS TO ENSURE
13 THAT APPLICANTS FOR TRANSFER DUE TO CHANGE IN OWNERSHIP OF AN
14 EXISTING LICENSED IN-HOME SERVICES AGENCY SATISFY THE INTENT AND
15 REQUIREMENTS OF THIS ARTICLE.

16 SEC. 21827. (1) NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS
17 ACT TO THE CONTRARY, AN IN-HOME SERVICES AGENCY THAT IS CERTIFIED
18 BY THE FEDERAL MEDICARE PROGRAM, OR ACCREDITED BY AN ACCREDITATION
19 ORGANIZATION RECOGNIZED AND UTILIZED BY THE FEDERAL MEDICARE
20 PROGRAM FOR PURPOSE OF GRANTING ELIGIBILITY FOR ENROLLED MEDICARE
21 PROVIDERS, INCLUDING, BUT NOT LIMITED TO, THE COMMUNITY HEALTH
22 ACCREDITATION PROGRAM, THE JOINT COMMISSION, OR THE ACCREDITATION
23 COMMISSION FOR HEALTHCARE, IS NOT SUBJECT TO A LICENSURE SURVEY
24 UNDER THIS PART IF ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

25 (A) THE DEPARTMENT DETERMINES THAT THE APPLICABLE STANDARDS OF
26 THE CERTIFICATION OR ACCREDITATION PROGRAM ARE SUBSTANTIALLY
27 EQUIVALENT TO THOSE REQUIRED BY THIS ARTICLE FOR A SURVEY.

1 (B) AN ON-SITE SURVEY HAS BEEN CONDUCTED FOR THE PURPOSES OF
2 CERTIFICATION OR ACCREDITATION DURING THE PREVIOUS 36 MONTHS OR AS
3 EXTENDED BY THE CERTIFYING OR ACCREDITING ENTITY.

4 (C) THE DEPARTMENT RECEIVES DIRECTLY FROM THE CERTIFYING OR
5 ACCREDITING ENTITY OR FROM THE APPLICANT COPIES OF THE INITIAL AND
6 SUBSEQUENT SURVEY REPORTS AND OTHER RELEVANT REPORTS OR FINDINGS
7 THAT INDICATE COMPLIANCE WITH THE REQUIREMENTS OF THIS PART.

8 (2) NOTWITHSTANDING SUBSECTION (1), THE DEPARTMENT RETAINS
9 AUTHORITY TO CONDUCT A SURVEY OF SERVICE AREAS NOT ADDRESSED BY THE
10 NATIONAL CERTIFYING OR ACCREDITING ENTITY.

11 (3) THE DEPARTMENT SHALL REVIEW THE SURVEY STANDARDS OF THE
12 ENTITIES IDENTIFIED IN THIS SECTION FOR SUBSTANTIAL EQUIVALENCY TO
13 THOSE SET FORTH IN THIS ARTICLE. IN THE EVENT THAT THE DEPARTMENT
14 DETERMINES AT ANY TIME THAT THE SURVEY STANDARDS ARE NOT
15 SUBSTANTIALLY EQUIVALENT TO THOSE REQUIRED BY THIS ARTICLE, THE
16 DEPARTMENT SHALL NOTIFY THE AFFECTED LICENSEES THAT THEY ARE
17 SUBJECT TO A SURVEY UNDER THIS PART. THE NOTIFICATION SHALL CONTAIN
18 A DETAILED DESCRIPTION OF THE DEFICIENCIES IN THE ALTERNATIVE
19 SURVEY PROCESS, AS WELL AS AN EXPLANATION OF THE RISK TO PATIENTS
20 OR CLIENTS.

21 (4) THE DEPARTMENT MAY PERFORM A VALIDATION SURVEY ON IN-HOME
22 SERVICES AGENCIES THAT PREVIOUSLY RECEIVED A SURVEY THROUGH
23 CERTIFICATION OR ACCREDITATION UNDER THIS SECTION. THE DEPARTMENT
24 MAY PERFORM A VALIDATION SURVEY ON NO GREATER THAN 10% OF EACH TYPE
25 OF CERTIFICATION OR ACCREDITATION SURVEY.

26 (5) THIS SECTION DOES NOT AFFECT THE DEPARTMENT'S ENFORCEMENT
27 AUTHORITY FOR IN-HOME SERVICES AGENCIES UNDER THIS PART.

1 SEC. 21829. (1) AN APPLICATION FOR A LICENSE OR LICENSE
2 RENEWAL SHALL BE ACCOMPANIED BY A FEE, NOT TO EXCEED \$500.00 PER
3 YEAR, AS ESTABLISHED BY THE DEPARTMENT. THE DEPARTMENT SHALL
4 PROMULGATE RULES TO ADOPT A SCHEDULE OF FEES REQUIRED UNDER THIS
5 PART. THE DEPARTMENT SHALL ESTABLISH VARIOUS FEES BASED ON A
6 SLIDING SCALE USING SUCH FACTORS AS THE NUMBER OF AGENCY FULL-TIME
7 EQUIVALENTS, GEOGRAPHIC AREA SERVED, NUMBER OF LOCATIONS, OR TYPE
8 AND VOLUME OF HOME HEALTH SERVICES PROVIDED. FOR AGENCIES RECEIVING
9 A LICENSURE SURVEY THAT REQUIRES MORE THAN 2 ON-SITE SURVEYS BY THE
10 DEPARTMENT PER LICENSURE PERIOD, AN ADDITIONAL FEE AS DETERMINED BY
11 THE DEPARTMENT UNDER THIS SUBSECTION SHALL BE CHARGED FOR EACH
12 ADDITIONAL ON-SITE SURVEY. THE DEPARTMENT MAY SET DIFFERENT FEES
13 FOR EACH LICENSURE CATEGORY. AGENCIES RECEIVING A LICENSE WITHOUT
14 AN ON-SITE SURVEY BY THE DEPARTMENT UNDER THIS PART SHALL PAY THE
15 SAME LICENSE FEE AS OTHER IN-HOME SERVICES AGENCIES IN THEIR
16 LICENSURE CATEGORY. A FEE FOR A TRANSFER DUE TO A CHANGE IN
17 OWNERSHIP SHALL NOT EXCEED 50% OF THE BASE LICENSURE FEE.

18 (2) SUBJECT TO SUBSECTION (1), THE DEPARTMENT MAY ESTABLISH A
19 LATE FEE FOR FAILURE TO APPLY FOR LICENSURE, TRANSFER, OR RENEWAL
20 AS REQUIRED BY THIS PART.

21 SEC. 21831. (1) UPON RECEIPT OF AN APPLICATION FOR A LICENSE
22 AND THE LICENSE FEE, THE DEPARTMENT SHALL ISSUE A LICENSE IF THE
23 APPLICANT MEETS THE REQUIREMENTS ESTABLISHED UNDER THIS PART. A
24 LICENSE, UNLESS SUSPENDED OR REVOKED, IS EFFECTIVE FOR A PERIOD OF
25 3 YEARS.

26 (2) THE DEPARTMENT SHALL CONDUCT A SURVEY WITHIN EACH
27 LICENSURE PERIOD AND MAY CONDUCT A LICENSURE SURVEY BEFORE OR AFTER

1 A TRANSFER DUE TO CHANGE IN OWNERSHIP AS PROVIDED IN SECTION 21825.

2 SEC. 21833. THE MICHIGAN BOARD OF IN-HOME SERVICES AGENCY
3 LICENSING IS CREATED WITHIN THE DEPARTMENT AND SHALL CONSIST OF 13
4 VOTING MEMBERS APPOINTED BY THE DIRECTOR. THE MEMBERSHIP OF THE
5 BOARD SHALL CONSIST OF 4 REPRESENTATIVES OF THE HOME HEALTH AGENCY-
6 CERTIFIED COMMUNITY; 4 REPRESENTATIVES OF THE PRIVATE DUTY HOME
7 CARE AGENCY COMMUNITY; 3 REPRESENTATIVES OF THE HOME MEDICAL
8 EQUIPMENT SUPPLIER COMMUNITY; AND 2 PUBLIC MEMBERS. THE DIRECTOR
9 SHALL SOLICIT CANDIDATES FROM THE HOME HEALTH SERVICES INDUSTRY,
10 INCLUDING THE MICHIGAN HOME HEALTH ASSOCIATION, AS FOLLOWS: 4
11 NOMINEES FOR THE HOME HEALTH AGENCY-CERTIFIED MEMBERS OF THE BOARD
12 AND 3 NOMINEES FOR THE HOME MEDICAL EQUIPMENT SUPPLIER MEMBERS OF
13 THE BOARD. THE DIRECTOR SHALL SOLICIT 2 NOMINEES EACH FROM THE
14 MICHIGAN HOME HEALTH ASSOCIATION AND THE MICHIGAN CHAPTER OF THE
15 NATIONAL PRIVATE DUTY ASSOCIATION FOR THE PRIVATE DUTY HOME CARE
16 AGENCY MEMBERS OF THE BOARD.

17 SEC. 21835. THE DEPARTMENT, IN CONSULTATION WITH THE BOARD,
18 SHALL PROMULGATE RULES NECESSARY TO IMPLEMENT, ADMINISTER, AND
19 ENFORCE THIS PART ON OR BEFORE JULY 1, 2013. IN ORDER TO ENSURE
20 SAFE AND ADEQUATE CARE, THE RULES SHALL ADDRESS, AT A MINIMUM, ALL
21 OF THE FOLLOWING:

22 (A) MAINTENANCE AND PRESERVATION OF ALL RECORDS RELATING
23 DIRECTLY TO THE CARE AND TREATMENT OF PATIENTS AND CLIENTS BY
24 LICENSEES.

25 (B) ESTABLISHMENT AND IMPLEMENTATION OF A PROCEDURE FOR THE
26 RECEIPT, INVESTIGATION, AND DISPOSITION OF COMPLAINTS REGARDING
27 HOME HEALTH SERVICES PROVIDED.

1 (C) ESTABLISHMENT AND IMPLEMENTATION OF A PLAN FOR ONGOING
2 CARE OF PATIENTS AND CLIENTS AND PRESERVATION OF RECORDS IF THE
3 LICENSEE CEASES OPERATIONS.

4 (D) SUPERVISION OF HOME HEALTH SERVICES.

5 (E) ESTABLISHMENT AND IMPLEMENTATION OF WRITTEN POLICIES
6 REGARDING RESPONSE TO REFERRALS AND ACCESS TO HOME HEALTH SERVICES.

7 (F) ESTABLISHMENT AND IMPLEMENTATION OF WRITTEN PERSONNEL
8 POLICIES, PROCEDURES, AND PERSONNEL RECORDS FOR PAID STAFF THAT
9 PROVIDE FOR PREHIRE SCREENING, INCLUDING CRIMINAL HISTORY CHECK AND
10 TESTING FOR COMMUNICABLE DISEASES, MINIMUM QUALIFICATIONS, REGULAR
11 PERFORMANCE EVALUATIONS THAT INCLUDE OBSERVATION IN THE PATIENT'S
12 OR CLIENT'S PLACE OF RESIDENCE, PARTICIPATION IN ORIENTATION AND
13 IN-SERVICE TRAINING, AND INVOLVEMENT IN QUALITY IMPROVEMENT
14 ACTIVITIES. THE DEPARTMENT SHALL NOT ESTABLISH EXPERIENCE OR OTHER
15 QUALIFICATIONS FOR IN-HOME SERVICES AGENCY PERSONNEL OR CONTRACTORS
16 BEYOND THAT REQUIRED BY STATE LAW.

17 (G) ESTABLISHMENT AND IMPLEMENTATION OF WRITTEN POLICIES AND
18 PROCEDURES FOR VOLUNTEERS WHO HAVE DIRECT ACCESS TO OR PROVIDE
19 DIRECT SERVICES TO PATIENTS OR CLIENTS AND THAT PROVIDE FOR
20 CRIMINAL HISTORY AND HEALTH SCREENING, ORIENTATION, AND
21 SUPERVISION.

22 (H) ESTABLISHMENT AND IMPLEMENTATION OF WRITTEN POLICIES FOR
23 OBTAINING REGULAR REPORTS ON PATIENT OR CLIENT SATISFACTION.

24 (I) ESTABLISHMENT AND IMPLEMENTATION OF A QUALITY IMPROVEMENT
25 PROCESS.

26 (J) ESTABLISHMENT AND IMPLEMENTATION OF POLICIES RELATED TO
27 THE DELIVERY OF HOME HEALTH SERVICES, INCLUDING ALL OF THE

1 FOLLOWING:

2 (i) PLAN OF CARE FOR EACH PATIENT OR CLIENT SERVED.

3 (ii) PERIODIC REVIEW OF THE PLAN OF CARE.

4 (iii) SUPERVISION OF CARE AND CLINICAL CONSULTATION AS
5 NECESSARY.

6 (iv) CARE CONSISTENT WITH THE PLAN OF CARE.

7 (v) ADMISSION, TRANSFER, AND DISCHARGE FROM CARE.

8 (K) ESTABLISHMENT AND IMPLEMENTATION OF POLICIES RELATED TO
9 IN-HOME SERVICES AGENCY IMPLEMENTATION AND OVERSIGHT OF DELEGATION
10 OF LICENSED HEALTH PROFESSIONALS.

11 (l) COMPLIANCE WITH ALL OTHER APPLICABLE STATE AND FEDERAL
12 LAWS.

13 (M) ESTABLISHMENT OF POLICIES TO ENSURE THAT THE IN-HOME
14 SERVICES AGENCY'S CAREGIVERS ARE BONDED OR INSURED, OR BOTH AS
15 APPLICABLE, AND THAT THE AGENCY IS RESPONSIBLE FOR PAYMENT OF ALL
16 NECESSARY INCOME TAXES AND LIABILITY AND WORKER'S DISABILITY
17 COMPENSATION INSURANCE.

18 SEC. 21837. THE DEPARTMENT SHALL CONTINUE TO DEVELOP, WITH
19 COOPERATION AND INPUT FROM THE STATE TRADE ASSOCIATIONS
20 REPRESENTING THE HOME HEALTH SERVICES INDUSTRY, INCLUDING THE
21 MICHIGAN HOME HEALTH ASSOCIATION AND THE MICHIGAN CHAPTER OF THE
22 NATIONAL PRIVATE DUTY ASSOCIATION, INTERPRETIVE GUIDELINES THAT ARE
23 SPECIFIC TO EACH TYPE OF HOME HEALTH SERVICE AND CONSISTENT WITH
24 THIS PART. THE PROCESS FOR SUCH CONTINUING DEVELOPMENTS SHALL
25 PROVIDE OPPORTUNITY FOR COMMENT FROM LICENSEES.

26 SEC. 21839. (1) AN IN-HOME SERVICES AGENCY SHALL PROVIDE EACH
27 PATIENT OR CLIENT OR THE PATIENT'S OR CLIENT'S DESIGNATED

1 REPRESENTATIVE WITH A COPY OF THE POLICY ESTABLISHED UNDER SECTION
2 20201 AND THIS SECTION DESCRIBING THE RIGHTS AND RESPONSIBILITIES
3 OF PATIENTS AND CLIENTS SERVED BY THE IN-HOME SERVICES AGENCY. IF A
4 CONFLICT EXISTS BETWEEN A REQUIREMENT OF THIS SECTION AND SECTION
5 20201, THE REQUIREMENT OF THIS SECTION PREVAILS. THE POLICY SHALL
6 INCLUDE, AT A MINIMUM, ALL OF THE FOLLOWING:

7 (A) A LISTING OF THE HOME HEALTH SERVICES OFFERED BY THE IN-
8 HOME SERVICES AGENCY AND THOSE BEING PROVIDED.

9 (B) THE NAMES OF THE ADMINISTRATOR AND THE DIRECTOR OF
10 CLINICAL SERVICES AND THE MANNER IN WHICH THOSE INDIVIDUALS MAY BE
11 CONTACTED.

12 (C) THE JOB TITLE OF THE INDIVIDUAL SUPERVISING THE PATIENTS'
13 OR CLIENTS' CARE AND THE MANNER IN WHICH THAT INDIVIDUAL MAY BE
14 CONTACTED.

15 (D) THE STATE COMPLAINT HOTLINE NUMBER AND THE APPROPRIATE
16 CERTIFYING OR ACCREDITING ENTITY'S HOTLINE NUMBER.

17 (E) THAT THE PATIENT OR CLIENT OR THE PATIENT'S OR CLIENT'S
18 DESIGNATED REPRESENTATIVE MAY PARTICIPATE ON AN ONGOING BASIS IN
19 THE DEVELOPMENT OF THE PLAN OF CARE.

20 (F) THAT THE PATIENT OR CLIENT OR THE PATIENT'S OR CLIENT'S
21 DESIGNATED REPRESENTATIVE MAY SELECT ANY LICENSEE TO PROVIDE HOME
22 HEALTH SERVICES, SUBJECT TO THE PATIENT'S OR CLIENT'S REIMBURSEMENT
23 MECHANISM OR OTHER RELEVANT CONTRACTUAL OBLIGATIONS.

24 (G) THAT THE PATIENT OR CLIENT WILL BE TREATED WITH COURTESY,
25 RESPECT, PRIVACY, AND FREEDOM FROM ABUSE AND DISCRIMINATION.

26 (H) THAT THE PATIENT OR CLIENT WILL HAVE HIS OR HER PROPERTY
27 TREATED WITH RESPECT.

1 (I) THAT THE PATIENT OR CLIENT MAY REQUEST AND BE PROVIDED A
2 FULLY ITEMIZED BILLING STATEMENT, INCLUDING THE DATE OF EACH
3 SERVICE AND THE CHARGE. LICENSEES PROVIDING SERVICES THROUGH A
4 MANAGED CARE PLAN, MEDICARE, MEDICAID, OR OTHER THIRD-PARTY PAYER
5 ARE NOT REQUIRED TO PROVIDE ITEMIZED BILLING STATEMENTS UNLESS
6 THERE ARE APPLICABLE COPAYMENTS, COINSURANCES, OR DEDUCTIBLES.

7 (J) THAT THE PATIENT OR CLIENT, IN COMPLIANCE WITH 42 USC
8 1395CC, WILL RECEIVE INFORMATION ABOUT HIS OR HER RIGHT TO EXECUTE
9 AN ADVANCE HEALTH CARE DIRECTIVE OR DURABLE POWER OF ATTORNEY AND
10 DESIGNATION OF PATIENT ADVOCATE AND THE IN-HOME SERVICES AGENCY'S
11 RESPONSIBILITY TO IMPLEMENT THOSE DOCUMENTS.

12 (K) THAT THE PATIENT OR CLIENT WILL BE INFORMED THAT THE IN-
13 HOME SERVICES AGENCY'S CAREGIVERS HAVE EXTENSIVE TRAINING, THAT THE
14 AGENCY'S CAREGIVERS ARE SUPERVISED, THAT THE AGENCY'S CAREGIVERS
15 HAVE UNDERGONE A CRIMINAL HISTORY CHECK, AND THAT THE AGENCY'S
16 CAREGIVERS ARE TESTED FOR TUBERCULOSIS AND OTHER COMMUNICABLE
17 DISEASES.

18 (l) THAT THE AGENCY ENSURES THAT ALL EMPLOYMENT LAWS ARE
19 FOLLOWED, THAT THE AGENCY'S CAREGIVERS ARE BONDED OR INSURED, OR
20 BOTH AS APPLICABLE, AND THAT THE AGENCY IS RESPONSIBLE FOR PAYMENT
21 OF ALL NECESSARY INCOME TAXES AND LIABILITY AND WORKER'S DISABILITY
22 COMPENSATION INSURANCE.

23 (2) AN IN-HOME SERVICES AGENCY SHALL TREAT PATIENTS AND
24 CLIENTS IN ACCORDANCE WITH THE POLICY ESTABLISHED UNDER SECTION
25 20201 AND THIS SECTION. AN IN-HOME SERVICES AGENCY SHALL IMPLEMENT
26 AND UPDATE ITS POLICY AS APPROPRIATE.

27 SEC. 21841. IN ADDITION TO THE AUTHORITY UNDER SECTION 20165

1 TO DENY, LIMIT, SUSPEND, OR REVOKE A LICENSE UNDER THIS PART OR
2 IMPOSE AN ADMINISTRATIVE FINE, THE DEPARTMENT MAY REQUIRE A REFUND
3 OF ANY AMOUNTS BILLED TO, AND COLLECTED FROM, THE PATIENT OR CLIENT
4 OR THIRD-PARTY PAYER IN ANY CASE IN WHICH THE DEPARTMENT DETERMINES
5 THAT ANY OF THE VIOLATIONS DESCRIBED IN SECTION 20165(1) OR (2)
6 HAVE OCCURRED.

7 SEC. 21843. (1) NOTWITHSTANDING SECTION 20155, THE DEPARTMENT
8 MAY AT ANY TIME CONDUCT A SURVEY OF ALL RECORDS AND OPERATIONS OF A
9 LICENSEE IN ORDER TO DETERMINE COMPLIANCE WITH THIS PART.

10 ADDITIONALLY, THE DEPARTMENT MAY CONDUCT IN-HOME VISITS TO OBSERVE
11 CARE AND SERVICES TO A PATIENT OR CLIENT. THE RIGHT TO CONDUCT A
12 SURVEY SHALL EXTEND TO ANY PREMISES AND RECORDS OF PERSONS WHO THE
13 DEPARTMENT HAS REASON TO BELIEVE ARE PROVIDING HOME HEALTH SERVICES
14 WITHOUT A LICENSE IN VIOLATION OF THIS PART.

15 (2) FOLLOWING A SURVEY UNDER THIS SECTION, THE DEPARTMENT
16 SHALL PROCEED IN THE MANNER PRESCRIBED IN PART 201 WITH REGARD TO
17 NOTICE, RIGHT TO HEARING, AND FINAL DETERMINATION OF THE MATTER. IF
18 REQUESTED, THE LICENSEE SHALL SUBMIT TO THE DEPARTMENT A WRITTEN
19 PLAN OF CORRECTION WITHIN THE TIME FRAME DESIGNATED ON THE NOTICE.
20 THE DEPARTMENT SHALL PROVIDE THE LICENSEE WITH WRITTEN NOTICE OF
21 THE ACCEPTANCE OF THE WRITTEN PLAN OF CORRECTION, OR ANY CHANGES
22 NECESSARY IN ORDER FOR THE WRITTEN PLAN OF CORRECTION TO BE
23 ACCEPTABLE TO THE DEPARTMENT.

24 SEC. 21845. ANY PENALTIES OR REMEDIES PROVIDED IN THIS PART OR
25 PART 201 ARE INDEPENDENT AND CUMULATIVE AND NOT EXCLUSIVE. NEITHER
26 THE DEPARTMENT NOR ANY OTHER PERSON IS LIMITED TO THE PENALTIES AND
27 REMEDIES IN THIS PART OR PART 201. THE USE OF A PENALTY OR REMEDY

1 BY A PERSON SHALL NOT BE CONSIDERED A BAR TO THE USE OF OTHER
2 PENALTIES OR REMEDIES BY THAT PERSON OR TO THE USE OF ANY PENALTY
3 OR REMEDY BY ANOTHER PERSON.

4 SEC. 21847. (1) A PERSON WHO VIOLATES THIS PART BY OPERATING
5 AN IN-HOME SERVICES AGENCY WITHOUT A LICENSE IS GUILTY OF A
6 MISDEMEANOR. EACH DAY OF THE VIOLATION IS CONSIDERED A SEPARATE
7 VIOLATION.

8 (2) IF THE PERSON WHO VIOLATES SUBSECTION (1) IS A
9 CORPORATION, IT MAY BE PUNISHED BY FORFEITURE OF ITS CORPORATE
10 CHARTER AND ALL RIGHTS AND FRANCHISES UNDER THAT CHARTER.

11 SEC. 21849. (1) THE DEPARTMENT MAY ORDER A PERSON TO CEASE AND
12 DESIST FROM ENGAGING IN THE UNLICENSED OPERATION OF AN IN-HOME
13 SERVICES AGENCY. THE PERSON ORDERED TO CEASE AND DESIST IS ENTITLED
14 TO A HEARING BEFORE A HEARINGS EXAMINER IF THE PERSON FILES A
15 WRITTEN REQUEST FOR A HEARING WITHIN 20 DAYS AFTER THE EFFECTIVE
16 DATE OF THE CEASE AND DESIST ORDER. THE FAILURE TO REQUEST A
17 HEARING CONSTITUTES A DEFAULT, WHEREUPON THE DEPARTMENT MAY ENTER A
18 PERMANENT CEASE AND DESIST ORDER AND PROCEED IN THE MANNER
19 PRESCRIBED IN SECTION 20165.

20 (2) UPON A VIOLATION OF A CEASE AND DESIST ORDER ISSUED UNDER
21 SUBSECTION (1), THE DEPARTMENT OF ATTORNEY GENERAL MAY APPLY IN
22 CIRCUIT COURT TO RESTRAIN AND ENJOIN, TEMPORARILY OR PERMANENTLY,
23 AN INDIVIDUAL FROM FURTHER VIOLATING THE CEASE AND DESIST ORDER.

24 SEC. 21851. A PERSON WHO VIOLATES THIS PART BY OPERATING AN
25 IN-HOME SERVICES AGENCY WITHOUT A LICENSE IS ALSO SUBJECT TO THE
26 MICHIGAN CONSUMER PROTECTION ACT, 1976 PA 331, MCL 445.901 TO
27 445.922, BECAUSE THE OPERATION OF AN IN-HOME SERVICES AGENCY

1 WITHOUT A LICENSE IN VIOLATION OF THIS PART IS NOT REASONABLE IN
2 RELATION TO THE DEVELOPMENT AND PRESERVATION OF BUSINESS AND IS AN
3 UNFAIR, UNCONSCIONABLE, OR DECEPTIVE METHOD, ACT, OR PRACTICE IN
4 THE CONDUCT OF TRADE OR COMMERCE.

5 Enacting section 1. This amendatory act takes effect January
6 1, 2012.