

# SENATE BILL No. 71

January 24, 2013, Introduced by Senator JANSEN 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 2012 PA 499, 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.

7       (c) A county medical care facility.

1 (d) A freestanding surgical outpatient facility.

2 (e) A health maintenance organization.

3 (f) A home for the aged.

4 (g) A hospital.

5 (h) A nursing home.

6 (i) A hospice.

7 (j) A hospice residence.

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

10 **(l) AN IN-HOME CARE SERVICES AGENCY.**

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

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

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

26 (5) "Hospital" means a facility offering inpatient, overnight  
27 care, and services for observation, diagnosis, and active treatment

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

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

11 Sec. 20108. (1) **"IN-HOME CARE SERVICES AGENCY" MEANS THAT TERM**  
12 **AS DEFINED IN SECTION 21807.**

13 (2) ~~(1)~~—"Intermediate care facility" means a hospital long-  
14 term care unit, nursing home, county medical care facility, or  
15 other nursing care facility, or distinct part thereof, certified by  
16 the department to provide intermediate care or basic care that is  
17 less than skilled nursing care but more than room and board.

18 (3) ~~(2)~~—"License" means an authorization, annual or as  
19 otherwise specified, granted by the department and evidenced by a  
20 certificate of licensure or permit granting permission to a person  
21 to establish or maintain and operate, or both, a health facility or  
22 agency. For purposes of part 209, "license" includes a license  
23 issued to an individual under that part.

24 (4) ~~(3)~~—"Licensee" means the holder of a license or permit to  
25 establish or maintain and operate, or both, a health facility or  
26 agency. For purposes of part 209, "licensee" includes an individual  
27 licensed under that part.

1       (5) ~~(4)~~—"Limited license" means a provisional license or  
 2 temporary permit or a license otherwise limited as prescribed by  
 3 the department.

4       (6) ~~(5)~~—"Medically contraindicated" means, with reference to  
 5 nursing homes only, having a substantial adverse effect on the  
 6 patient's physical health, as determined by the attending  
 7 physician, which effect is explicitly stated in writing with the  
 8 reasons ~~therefor~~ **FOR THAT EFFECT** in the patient's medical record.

9       (7) ~~(6)~~—"Medical first response service" means that term as  
 10 defined in section 20906.

11       (8) ~~(7)~~—"Nontransport prehospital life support operation"  
 12 means that term as defined in section 20908.

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

1           (2) The department shall promulgate rules to differentiate a  
2 freestanding surgical outpatient facility from a private office of  
3 a physician, dentist, podiatrist, or other health professional. The  
4 department shall specify in the rules that a facility including,  
5 but not limited to, a private practice office described in this  
6 subsection must be licensed under this article as a freestanding  
7 surgical outpatient facility if that facility performs 120 or more  
8 surgical abortions per year and publicly advertises outpatient  
9 abortion services.

10           (3) The department shall promulgate rules that in effect  
11 republish R 325.3826, R 325.3832, R 325.3835, R 325.3857, R  
12 325.3866, R 325.3867, and R 325.3868 of the Michigan administrative  
13 code, but shall include in the rules standards for a freestanding  
14 surgical outpatient facility or private practice office that  
15 performs 120 or more surgical abortions per year and that publicly  
16 advertises outpatient abortion services. The department shall  
17 assure that the standards are consistent with the most recent  
18 United States supreme court decisions regarding state regulation of  
19 abortions.

20           (4) Subject to section 20145 and part 222, the department may  
21 modify or waive 1 or more of the rules contained in R 325.3801 to R  
22 325.3877 of the Michigan administrative code regarding construction  
23 or equipment standards, or both, for a freestanding surgical  
24 outpatient facility that performs 120 or more surgical abortions  
25 per year and that publicly advertises outpatient abortion services,  
26 if both of the following conditions are met:

27           (a) The freestanding surgical outpatient facility was in

1 existence and operating on December 31, 2012.

2 (b) The department makes a determination that the existing  
3 construction or equipment conditions, or both, within the  
4 freestanding surgical outpatient facility are adequate to preserve  
5 the health and safety of the patients and employees of the  
6 freestanding surgical outpatient facility or that the construction  
7 or equipment conditions, or both, can be modified to adequately  
8 preserve the health and safety of the patients and employees of the  
9 freestanding surgical outpatient facility without meeting the  
10 specific requirements of the rules.

11 (5) By January 15 each year, the department of community  
12 health shall provide the following information to the department of  
13 licensing and regulatory affairs:

14 (a) From data received by the department of community health  
15 through the abortion reporting requirements of section 2835, all of  
16 the following:

17 (i) The name and location of each facility at which abortions  
18 were performed during the immediately preceding calendar year.

19 (ii) The total number of abortions performed at that facility  
20 location during the immediately preceding calendar year.

21 (iii) The total number of surgical abortions performed at that  
22 facility location during the immediately preceding calendar year.

23 (b) Whether a facility at which surgical abortions were  
24 performed in the immediately preceding calendar year publicly  
25 advertises abortion services.

26 (6) As used in this section:

27 (a) "Abortion" means that term as defined in section 17015.

1 (b) "Publicly advertises" means to advertise using directory  
2 or internet advertising including yellow pages, white pages, banner  
3 advertising, or electronic publishing.

4 (c) "Surgical abortion" means an abortion that is not a  
5 medical abortion as that term is defined in section 17017.

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

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

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

1 securities ownership required by the department rule or order. An  
2 applicant or licensee proposing a sale of a nursing home to another  
3 person shall provide the department with written, advance notice of  
4 the proposed sale. The applicant or licensee and the other parties  
5 to the sale shall arrange to meet with specified department  
6 representatives and shall obtain before the sale a determination of  
7 the items of noncompliance with applicable law and rules which  
8 shall be corrected. The department shall notify the respective  
9 parties of the items of noncompliance prior to the change of  
10 ownership and shall indicate that the items of noncompliance must  
11 be corrected as a condition of issuance of a license to the new  
12 owner. The department may accept reports filed with the securities  
13 and exchange commission relating to the filings. A person who  
14 violates this subsection is guilty of a misdemeanor, punishable by  
15 a fine of not more than \$1,000.00 for each violation.

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

27 (a) The ~~person~~**INDIVIDUAL**, or the ~~person's~~**INDIVIDUAL'S**



1 spouse, parent, sibling, or child has an ownership interest in the  
2 nursing home purchasing the goods or services.

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

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

#### 11 PART 218.

##### 12 IN-HOME CARE SERVICES AGENCIES

13 SEC. 21801. (1) FOR PURPOSES OF THIS PART, THE WORDS AND  
14 PHRASES DEFINED IN SECTIONS 21803 TO 21811 HAVE THE MEANINGS  
15 ASCRIBED TO THEM IN THOSE SECTIONS.

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

19 SEC. 21803. (1) "ADMINISTRATOR" MEANS AN INDIVIDUAL  
20 RESPONSIBLE FOR MANAGING THE OPERATION OF AN IN-HOME CARE SERVICES  
21 AGENCY.

22 (2) "DIRECTOR OF CLINICAL SERVICES" MEANS AN INDIVIDUAL  
23 RESPONSIBLE FOR NURSING, THERAPY, NUTRITIONAL, SOCIAL, AND RELATED  
24 SERVICES THAT SUPPORT THE PLAN OF CARE PROVIDED BY AN IN-HOME CARE  
25 SERVICES AGENCY.

26 (3) "FAMILY" MEANS INDIVIDUALS WHO ARE IMPORTANT TO, AND  
27 DESIGNATED BY, THE PATIENT OR CLIENT AND WHO NEED NOT BE RELATIVES.

1           SEC. 21805. (1) "HOME HEALTH AGENCY-CERTIFIED" MEANS AN AGENCY  
2 THAT IS CERTIFIED BY THE FEDERAL GOVERNMENT UNDER TITLE XVIII OF  
3 THE SOCIAL SECURITY ACT, 42 USC 1395 TO 1395KKK-1, TO PROVIDE HOME  
4 HEALTH SERVICES.

5           (2) "HOME HEALTH AIDE SERVICES" MEANS SERVICES PROVIDED BY A  
6 HOME HEALTH AGENCY-CERTIFIED OR AN IN-HOME CARE SERVICES AGENCY  
7 AND, IF REQUIRED BY A RULE OR UNDER A CONTRACT, PROVIDED UNDER THE  
8 SUPERVISION OF A REGISTERED NURSE, PHYSICAL THERAPIST, OCCUPATIONAL  
9 THERAPIST, SPEECH THERAPIST, OR RESPIRATORY THERAPIST WHO IS  
10 EMPLOYED BY OR UNDER CONTRACT TO THE HOME HEALTH AGENCY-CERTIFIED  
11 OR IN-HOME CARE SERVICES AGENCY. HOME HEALTH AIDE SERVICES INCLUDE  
12 AMBULATION AND EXERCISE, ASSISTANCE WITH SELF-ADMINISTERED  
13 MEDICATIONS, REPORTING CHANGES IN A PATIENT'S OR CLIENT'S CONDITION  
14 AND NEEDS, COMPLETING APPROPRIATE RECORDS, AND PERSONAL CARE OR  
15 HOMEMAKER SERVICES.

16           (3) "HOME HEALTH SERVICES" MEANS SERVICES THAT INCLUDE, BUT  
17 ARE NOT LIMITED TO, NURSING SERVICES, HOME HEALTH AIDE SERVICES,  
18 PHYSICAL THERAPY SERVICES, OCCUPATIONAL THERAPY SERVICES, SPEECH  
19 THERAPY SERVICES, RESPIRATORY THERAPY SERVICES, NUTRITIONAL  
20 SERVICES, MEDICAL SOCIAL SERVICES, AND HOME MEDICAL SUPPLIES OR  
21 EQUIPMENT SERVICES.

22           SEC. 21807. (1) "HOME MEDICAL EQUIPMENT SUPPLIER" MEANS AN  
23 ORGANIZATION THAT FURNISHES DURABLE MEDICAL EQUIPMENT, PROSTHETICS,  
24 AND ORTHOTICS SUPPLIES AND SERVICES, EITHER DIRECTLY OR THROUGH A  
25 CONTRACTUAL ARRANGEMENT, TO A PATIENT OR CLIENT IN HIS OR HER  
26 RESIDENCE. TO BE ELIGIBLE FOR LICENSURE UNDER THIS PART, A HOME  
27 MEDICAL EQUIPMENT SUPPLIER SHALL COMPLY WITH STANDARDS SPECIFIED IN

1 THE GENERAL LICENSURE REGULATIONS, INCLUDING, BUT NOT LIMITED TO,  
2 COMPLIANCE WITH CENTERS FOR MEDICARE AND MEDICAID SUPPLIER QUALITY  
3 STANDARDS GOVERNING THE SAFETY OF HOME MEDICAL EQUIPMENT SERVICES  
4 SUPPLIER FACILITIES, THE SAFETY AND QUALITY OF HOME MEDICAL  
5 EQUIPMENT, AND THE SAFETY, QUALITY, AND EFFECTIVENESS OF HOME  
6 MEDICAL EQUIPMENT SERVICE PROCEDURES; AND SHALL MAINTAIN A PHYSICAL  
7 FACILITY AND MEDICAL EQUIPMENT INVENTORY.

8 (2) "HOME MEDICAL SUPPLIES OR EQUIPMENT SERVICES" MEANS  
9 DIAGNOSTIC, TREATMENT, AND MONITORING EQUIPMENT AND SUPPLIES  
10 PROVIDED FOR THE DIRECT CARE OF A PATIENT OR CLIENT IN HIS OR HER  
11 RESIDENCE. HOME MEDICAL SUPPLIES OR EQUIPMENT SERVICES INCLUDE, BUT  
12 ARE NOT LIMITED TO, THE DELIVERY, INSTALLATION, MAINTENANCE,  
13 REPLACEMENT OF, OR INSTRUCTION IN THE USE OF MEDICAL EQUIPMENT AND  
14 RELATED SUPPLIES USED BY A PATIENT OR CLIENT IN HIS OR HER  
15 RESIDENCE.

16 (3) "IN-HOME CARE SERVICES" MEANS SKILLED HOME HEALTH  
17 SERVICES, PERSONAL CARE SERVICES, AND OTHER ASSISTANCE PROVIDED TO  
18 A PATIENT OR CLIENT IN HIS OR HER RESIDENCE.

19 (4) "IN-HOME CARE SERVICES AGENCY" MEANS AN ORGANIZATION THAT  
20 DOES ANY OF THE FOLLOWING:

21 (A) ADMINISTERS OR PROVIDES SKILLED HOME HEALTH SERVICES OR  
22 PERSONAL CARE SERVICES DIRECTLY OR THROUGH A CONTRACTUAL  
23 ARRANGEMENT TO A PATIENT OR CLIENT IN HIS OR HER RESIDENCE.

24 (B) FOR A FEE PROVIDES ONLY REFERRALS OF INDIVIDUALS TO A  
25 PATIENT OR CLIENT SEEKING SKILLED HOME HEALTH SERVICES OR PERSONAL  
26 CARE SERVICES IN HIS OR HER RESIDENCE.

27 (C) MANAGES OR SCHEDULES THE DELIVERY OF SKILLED HOME HEALTH

1 SERVICES OR PERSONAL CARE SERVICES TO A PATIENT OR CLIENT IN HIS OR  
2 HER RESIDENCE.

3 SEC. 21809. (1) "ORGANIZATION" MEANS ANY INDIVIDUAL, BUSINESS,  
4 FIRM, PARTNERSHIP, CORPORATION, COMPANY, ASSOCIATION, JOINT STOCK  
5 ASSOCIATION, OR A PUBLIC OR PRIVATE AGENCY OR ENTITY, OR THE LEGAL  
6 SUCCESSOR OF ANY OF THESE, THAT EMPLOYS OR CONTRACTS WITH 2 OR MORE  
7 INDIVIDUALS TO PROVIDE HOME HEALTH SERVICES.

8 (2) "PERSONAL CARE SERVICES" MEANS ASSISTANCE WITH ACTIVITIES  
9 OF DAILY LIVING OR ACTIVITIES OF INSTITUTIONAL DAILY LIVING,  
10 INCLUDING, BUT NOT LIMITED TO, BATHING, DRESSING, EATING,  
11 TRANSFERRING, WALKING OR MOBILITY, TOILETING, AND INCONTINENCE  
12 CARE. PERSONAL CARE SERVICES INCLUDE HOUSEKEEPING, PERSONAL  
13 LAUNDRY, MEDICATION REMINDERS, AND COMPANIONSHIP SERVICES FURNISHED  
14 TO A PATIENT OR CLIENT IN HIS OR HER RESIDENCE AND THOSE NORMAL  
15 DAILY ROUTINES THAT THE PATIENT OR CLIENT COULD PERFORM FOR HIMSELF  
16 OR HERSELF WERE HE OR SHE PHYSICALLY CAPABLE AND THAT ARE INTENDED  
17 TO ENABLE THE PATIENT OR CLIENT TO REMAIN SAFELY AND COMFORTABLY IN  
18 HIS OR HER RESIDENCE. PERSONAL CARE SERVICES ARE NOT SERVICES THAT  
19 REQUIRE THE SUPERVISION OF A LICENSED OR CERTIFIED HEALTH CARE  
20 PROFESSIONAL ACTING WITHIN THE SCOPE OF HIS OR HER LICENSE OR  
21 CERTIFICATE.

22 (3) "PLAN OF CARE" MEANS A WRITTEN DOCUMENT BASED ON AN  
23 ASSESSMENT OF A PATIENT'S OR CLIENT'S NEEDS AND PREFERENCES THAT  
24 IDENTIFIES HOME HEALTH SERVICES NECESSARY TO MEET THOSE NEEDS AND  
25 PREFERENCES.

26 SEC. 21811. (1) "QUALITY IMPROVEMENT" MEANS REVIEWING AND  
27 EVALUATING APPROPRIATENESS AND EFFECTIVENESS OF HOME HEALTH

1 SERVICES PROVIDED UNDER THIS PART.

2 (2) "RESIDENCE" MEANS A PLACE OF PERMANENT OR TEMPORARY  
3 RESIDENCE OR OTHER RESIDENTIAL ENVIRONMENT.

4 (3) "SKILLED HOME HEALTH SERVICES" MEANS HEALTH AND MEDICAL  
5 SERVICES FURNISHED TO A PATIENT OR CLIENT IN HIS OR HER RESIDENCE  
6 THAT INCLUDE WOUND CARE SERVICES, USE OF MEDICAL SUPPLIES INCLUDING  
7 DRUGS AND BIOLOGICALS PRESCRIBED BY A PHYSICIAN, IN-HOME INFUSION  
8 SERVICES, NURSING SERVICES, HOME HEALTH AIDE OR CERTIFIED NURSE  
9 AIDE SERVICES THAT REQUIRE THE SUPERVISION OF A LICENSED OR  
10 CERTIFIED HEALTH CARE PROFESSIONAL ACTING WITHIN THE SCOPE OF HIS  
11 OR HER LICENSE OR CERTIFICATE, OCCUPATIONAL THERAPY, PHYSICAL  
12 THERAPY, RESPIRATORY CARE SERVICES, DIETETICS AND NUTRITION  
13 COUNSELING SERVICES, MEDICAL ADMINISTRATION, MEDICAL SOCIAL  
14 SERVICES, AND SPEECH-LANGUAGE PATHOLOGY SERVICES. SKILLED HOME  
15 HEALTH SERVICES DO NOT INCLUDE DELIVERY OF HOME MEDICAL SUPPLIES OR  
16 EQUIPMENT SERVICES.

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

21 SEC. 21821. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS PART, A  
22 PERSON SHALL NOT ADVERTISE, OPERATE, MANAGE, CONDUCT, OPEN, OR  
23 MAINTAIN AN IN-HOME CARE SERVICES AGENCY WITHOUT A LICENSE UNDER  
24 THIS PART. THIS PART APPLIES TO A NURSING HOME, HOSPITAL, OR OTHER  
25 ORGANIZATION THAT FUNCTIONS AS A HOME HEALTH AGENCY-CERTIFIED, IN-  
26 HOME CARE SERVICES AGENCY, OR HOME MEDICAL EQUIPMENT SUPPLIER. THIS  
27 PART APPLIES TO A HEALTH FACILITY OR AGENCY OTHERWISE LICENSED

1 UNDER THIS ARTICLE TO THE EXTENT THE FACILITY OR AGENCY PROVIDES  
2 HOME HEALTH SERVICES OUTSIDE OF ITS LICENSED PREMISES.

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

5 (A) "HOME HEALTH AGENCY-CERTIFIED", "VISITING NURSE", OR "HOME  
6 HEALTH SERVICES", IN ITS CORPORATE OR BUSINESS NAME, OR ADVERTISE  
7 USING THOSE TITLES, WORDS, OR PHRASES UNLESS LICENSED TO PROVIDE  
8 THOSE SERVICES UNDER THIS PART.

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

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

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

1 SECTION MAY APPEAL IN THE MANNER PROVIDED IN SECTION 20173B.

2 (4) AN ORGANIZATION IS NOT SUBJECT TO THE LICENSING  
3 REQUIREMENTS OF THIS PART IF ALL OF THE FOLLOWING REQUIREMENTS ARE  
4 MET:

5 (A) THE ORGANIZATION HAS AND CONTINUOUSLY MAINTAINS  
6 ACCREDITATION FROM THE COMMISSION ON ACCREDITATION OF  
7 REHABILITATION FACILITIES. THE ORGANIZATION SHALL IMMEDIATELY  
8 NOTIFY THE DEPARTMENT IF IT FAILS TO MAINTAIN ITS ACCREDITATION AS  
9 REQUIRED UNDER THIS SUBDIVISION.

10 (B) THE ORGANIZATION HAS PERFORMED A CRIMINAL HISTORY CHECK OF  
11 INDIVIDUALS AS DESCRIBED IN SUBSECTION (3).

12 (C) ON A FORM AND IN THE MANNER PRESCRIBED BY THE DEPARTMENT,  
13 THE ORGANIZATION SUBMITS BOTH OF THE FOLLOWING:

14 (i) DOCUMENTATION THAT IT MEETS THE REQUIREMENTS OF  
15 SUBDIVISIONS (A) AND (B).

16 (ii) PAYMENT OF AN AMOUNT EQUAL TO 1/4 OF THE LICENSING FEE  
17 ESTABLISHED UNDER SECTION 21829 THAT WOULD OTHERWISE BE REQUIRED BY  
18 THAT ORGANIZATION TO BE LICENSED UNDER THIS PART.

19 SEC. 21823. THE FOLLOWING ARE NOT SUBJECT TO LICENSURE UNDER  
20 THIS PART:

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

22 (B) AN ORGANIZATION THAT PROVIDES ONLY MEAL SERVICES TO A  
23 PATIENT OR CLIENT IN HIS OR HER RESIDENCE.

24 (C) AN INDIVIDUAL PROVIDING IN-HOME CARE SERVICES THROUGH A  
25 DIRECT AGREEMENT WITH NOT MORE THAN 2 PATIENTS OR CLIENTS IN THEIR  
26 RESIDENCES. THE EXCEPTION PROVIDED BY THIS SUBDIVISION DOES NOT  
27 APPLY TO AN INDIVIDUAL WHO IS EMPLOYED BY OR UNDER CONTRACT WITH AN

1 IN-HOME CARE SERVICES AGENCY, WHO IS REFERRED TO THE PATIENT OR  
2 CLIENT BY AN IN-HOME CARE SERVICES AGENCY, OR WHOSE SCHEDULE AND  
3 DELIVERY OF HOME HEALTH SERVICES TO A PATIENT OR CLIENT ARE MANAGED  
4 BY AN IN-HOME CARE SERVICES AGENCY.

5 (D) AN ORGANIZATION THAT PROVIDES SERVICES THROUGH A CONTRACT  
6 WITH A LICENSED AGENCY AS LONG AS THE CONTRACT ESTABLISHES THAT IT  
7 IS THE LICENSED AGENCY THAT HOLDS OVERALL RESPONSIBILITY FOR  
8 SERVICES TO A PATIENT OR CLIENT IN HIS OR HER RESIDENCE.

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

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

17 (G) AN INDIVIDUAL PROVIDING CARE TO PATIENTS OR CLIENTS IN  
18 THEIR RESIDENCES THROUGH A CONTRACT WITH THE DEPARTMENT OF HUMAN  
19 SERVICES.

20 (H) NURSING HOMES, HOSPITALS, OR OTHER INSTITUTIONS, AGENCIES,  
21 ORGANIZATIONS, OR PERSONS THAT CONTRACT WITH LICENSED HOME HEALTH  
22 AGENCY-CERTIFIED, IN-HOME CARE SERVICES AGENCY, OR HOME MEDICAL  
23 EQUIPMENT SUPPLIER FOR THE DELIVERY OF ALL HOME HEALTH SERVICES.

24 (I) IN-HOME ASSESSMENTS OF PATIENTS OR CLIENTS THAT DO NOT  
25 RESULT IN REGULAR ONGOING CARE OF THAT PATIENT OR CLIENT IN HIS OR  
26 HER RESIDENCE.

27 (J) SERVICES CONDUCTED BY AND FOR THE ADHERENTS OF A CHURCH OR



1 RELIGIOUS DENOMINATION THAT RELY UPON SPIRITUAL MEANS ALONE THROUGH  
2 PRAYER FOR HEALING IN ACCORDANCE WITH THE TENETS AND PRACTICES OF  
3 THAT CHURCH OR RELIGIOUS DENOMINATION AND THE BONA FIDE RELIGIOUS  
4 BELIEFS GENUINELY HELD BY ITS ADHERENTS.

5 (K) A MEDICARE-APPROVED DIALYSIS CENTER OPERATING A MEDICARE-  
6 APPROVED HOME DIALYSIS PROGRAM.

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

12 (M) A PERSON WHO PROVIDES HOME HEALTH SERVICES WITHOUT  
13 COMPENSATION.

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

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

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

20 (C) PROVIDE EVIDENCE OF AND MAINTAIN PROFESSIONAL LIABILITY,  
21 PUBLIC LIABILITY, WORKER'S DISABILITY COMPENSATION, AND PROPERTY  
22 DAMAGE INSURANCE IN AN AMOUNT ESTABLISHED BY THE DEPARTMENT, BASED  
23 ON INDUSTRY STANDARDS.

24 (D) FILE WITH THE DEPARTMENT A LIST OF THE HOME HEALTH  
25 SERVICES, IN-HOME CARE SERVICES, AND HOME MEDICAL SUPPLIES OR  
26 EQUIPMENT SERVICES PROVIDED DIRECTLY AND UNDER CONTRACT.

27 (E) PAY TO THE DEPARTMENT THE LICENSE FEE REQUIRED UNDER

1 SECTION 21829.

2 (F) DEMONSTRATE TO THE DEPARTMENT'S SATISFACTION THAT THE  
3 OWNERS, OPERATORS, AND MEMBERS OF THE GOVERNING BODY, IF ANY, OF  
4 THE IN-HOME CARE SERVICES AGENCY ARE OF GOOD MORAL CHARACTER.

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 CARE SERVICES AGENCY SATISFY THE INTENT  
15 AND REQUIREMENTS OF THIS ARTICLE.

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

26 (A) THE DEPARTMENT DETERMINES THAT THE APPLICABLE STANDARDS OF  
27 THE CERTIFICATION OR ACCREDITATION PROGRAM ARE SUBSTANTIALLY

1 EQUIVALENT TO THOSE REQUIRED BY THIS ARTICLE FOR A SURVEY.

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

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

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

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

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

27 (5) THIS SECTION DOES NOT AFFECT THE DEPARTMENT'S ENFORCEMENT

1 AUTHORITY FOR IN-HOME CARE SERVICES AGENCIES UNDER THIS PART.

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

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

22 (3) THE DEPARTMENT SHALL FORWARD FEES COLLECTED UNDER THIS  
23 SECTION TO THE STATE TREASURER FOR DEPOSIT IN THE IN-HOME CARE FUND  
24 CREATED IN SECTION 21853.

25 SEC. 21831. (1) UPON RECEIPT OF AN APPLICATION FOR A LICENSE  
26 AND THE LICENSE FEE, THE DEPARTMENT SHALL ISSUE A LICENSE IF THE  
27 APPLICANT MEETS THE REQUIREMENTS ESTABLISHED UNDER THIS PART. A

1 LICENSE, UNLESS SUSPENDED OR REVOKED, IS EFFECTIVE FOR A PERIOD OF  
2 3 YEARS.

3 (2) THE DEPARTMENT SHALL CONDUCT A SURVEY WITHIN EACH  
4 LICENSURE PERIOD AND MAY CONDUCT A LICENSURE SURVEY BEFORE OR AFTER  
5 A TRANSFER DUE TO CHANGE IN OWNERSHIP AS PROVIDED IN SECTION 21825.

6 SEC. 21833. THE MICHIGAN BOARD OF SKILLED HOME HEALTH SERVICES  
7 IS CREATED WITHIN THE DEPARTMENT. THE MICHIGAN BOARD OF PERSONAL  
8 CARE SERVICES IS CREATED WITHIN THE DEPARTMENT. EACH BOARD CREATED  
9 IN THIS SECTION SHALL ADVISE THE DEPARTMENT REGARDING THE  
10 PROMULGATION OF RULES UNDER SECTION 21835 AND THE LICENSING OF IN-  
11 HOME CARE SERVICES AGENCIES. THE DIRECTOR OF THE DEPARTMENT SHALL  
12 APPOINT MEMBERS TO EACH BOARD CREATED IN THIS SECTION. A MEMBER OF  
13 A BOARD CREATED IN THIS SECTION SHALL SERVE AT THE PLEASURE OF THE  
14 DIRECTOR ON A VOLUNTARY BASIS AND SHALL SERVE WITHOUT COMPENSATION.  
15 AT A MINIMUM, EACH BOARD CREATED IN THIS SECTION SHALL CONSIST OF  
16 REPRESENTATIVES OF ALL OF THE FOLLOWING:

17 (A) IN-HOME CARE SERVICES AGENCIES.

18 (B) CONSUMERS OF HOME HEALTH SERVICES.

19 (C) SENIORS WHO ARE CONSUMERS OF HOME HEALTH SERVICES.

20 (D) MEDICAID SERVICES PROVIDERS.

21 (E) SKILLED HOME HEALTH SERVICES PROVIDERS.

22 (F) PERSONAL CARE SERVICES PROVIDERS.

23 (G) REPRESENTATIVES OF THE DEPARTMENT AND OF THE DEPARTMENT OF  
24 HUMAN SERVICES.

25 SEC. 21835. THE DEPARTMENT, IN CONSULTATION WITH THE BOARDS  
26 CREATED IN SECTION 21833, SHALL PROMULGATE RULES NECESSARY TO  
27 IMPLEMENT, ADMINISTER, AND ENFORCE THIS PART ON OR BEFORE JULY 1,

1 2014. IN ORDER TO ENSURE SAFE AND ADEQUATE CARE, THE RULES SHALL  
2 ADDRESS, AT A MINIMUM, ALL OF THE FOLLOWING:

3 (A) MAINTENANCE AND PRESERVATION OF ALL RECORDS RELATING  
4 DIRECTLY TO THE CARE AND TREATMENT OF PATIENTS AND CLIENTS BY  
5 LICENSEES. HOWEVER, A LICENSEE SHALL NOT BE REQUIRED TO DO EITHER  
6 OF THE FOLLOWING:

7 (i) TRACK OR REPORT DISEASE OUTCOMES OR DEMOGRAPHICS OF THE  
8 PATIENTS OR CLIENTS SERVED BY THE LICENSEE.

9 (ii) PURCHASE MEDICAL RECORDS SOFTWARE.

10 (B) ESTABLISHMENT AND IMPLEMENTATION OF A PROCEDURE FOR THE  
11 RECEIPT, INVESTIGATION, AND DISPOSITION OF COMPLAINTS REGARDING  
12 HOME HEALTH SERVICES PROVIDED.

13 (C) ESTABLISHMENT AND IMPLEMENTATION OF A PLAN FOR ONGOING  
14 CARE OF PATIENTS AND CLIENTS AND PRESERVATION OF RECORDS IF THE  
15 LICENSEE CEASES OPERATIONS.

16 (D) SUPERVISION OF HOME HEALTH SERVICES. A LICENSEE SHALL NOT  
17 BE REQUIRED TO EMPLOY OR CONTRACT THE SERVICES OF A LICENSED HEALTH  
18 CARE PROFESSIONAL UNLESS THE LICENSEE IS PROVIDING SKILLED HOME  
19 HEALTH SERVICES THAT REQUIRE THE SUPERVISION OF A LICENSED HEALTH  
20 CARE PROFESSIONAL.

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

23 (F) ESTABLISHMENT AND IMPLEMENTATION OF WRITTEN PERSONNEL  
24 POLICIES, PROCEDURES, AND PERSONNEL RECORDS FOR PAID STAFF THAT  
25 PROVIDE FOR PREHIRE SCREENING, INCLUDING CRIMINAL HISTORY CHECK AND  
26 TESTING FOR COMMUNICABLE DISEASES, MINIMUM QUALIFICATIONS, REGULAR  
27 PERFORMANCE EVALUATIONS THAT INCLUDE OBSERVATION IN THE PATIENT'S

1 OR CLIENT'S RESIDENCE, PARTICIPATION IN ORIENTATION AND IN-SERVICE  
2 TRAINING, AND INVOLVEMENT IN QUALITY IMPROVEMENT ACTIVITIES. THE  
3 DEPARTMENT SHALL NOT ESTABLISH EXPERIENCE, CERTIFICATION,  
4 LICENSURE, OR OTHER QUALIFICATIONS FOR IN-HOME SERVICES AGENCY  
5 PERSONNEL OR CONTRACTORS BEYOND THAT REQUIRED BY FEDERAL OR STATE  
6 LAW.

7 (G) ESTABLISHMENT AND IMPLEMENTATION OF WRITTEN POLICIES AND  
8 PROCEDURES FOR VOLUNTEERS WHO HAVE DIRECT ACCESS TO OR PROVIDE  
9 DIRECT SERVICES TO PATIENTS OR CLIENTS AND THAT PROVIDE FOR  
10 CRIMINAL HISTORY AND HEALTH SCREENING, ORIENTATION, AND  
11 SUPERVISION.

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

14 (I) ESTABLISHMENT AND IMPLEMENTATION OF A QUALITY IMPROVEMENT  
15 PROCESS.

16 (J) ESTABLISHMENT AND IMPLEMENTATION, IF APPROPRIATE, OF  
17 POLICIES RELATED TO THE DELIVERY OF SKILLED HOME HEALTH SERVICES  
18 AND PERSONAL CARE SERVICES, INCLUDING ALL OF THE FOLLOWING:

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

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

21 (iii) SUPERVISION OF CARE AND CLINICAL CONSULTATION AS  
22 NECESSARY.

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

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

25 (K) ESTABLISHMENT AND IMPLEMENTATION OF POLICIES RELATED TO  
26 IN-HOME SERVICES AGENCY IMPLEMENTATION AND OVERSIGHT OF DELEGATION  
27 OF LICENSED HEALTH PROFESSIONALS.

1 (I) COMPLIANCE WITH ALL OTHER APPLICABLE STATE AND FEDERAL  
2 LAWS.

3 (M) ESTABLISHMENT OF POLICIES TO ENSURE THAT THE IN-HOME CARE  
4 SERVICES AGENCY'S CAREGIVERS ARE BONDED OR INSURED, OR BOTH AS  
5 APPLICABLE, AND THAT THE AGENCY IS RESPONSIBLE FOR PAYMENT OF ALL  
6 REQUIRED EMPLOYMENT TAXES AND LIABILITY AND WORKER'S DISABILITY  
7 COMPENSATION INSURANCE.

8 (N) ESTABLISHMENT AND IMPLEMENTATION OF TRAINING REQUIREMENTS  
9 FOR IN-HOME CAREGIVERS.

10 SEC. 21837. THE DEPARTMENT SHALL CONTINUE TO DEVELOP, WITH  
11 COOPERATION AND INPUT FROM THE STATE TRADE ASSOCIATIONS  
12 REPRESENTING THE HOME HEALTH SERVICES INDUSTRY, INTERPRETIVE  
13 GUIDELINES THAT ARE SPECIFIC TO EACH TYPE OF HOME HEALTH SERVICE  
14 AND CONSISTENT WITH THIS PART. THE PROCESS FOR SUCH CONTINUING  
15 DEVELOPMENTS SHALL PROVIDE OPPORTUNITY FOR COMMENT FROM LICENSEES.

16 SEC. 21839. (1) AN IN-HOME CARE SERVICES AGENCY SHALL PROVIDE  
17 EACH PATIENT OR CLIENT OR THE PATIENT'S OR CLIENT'S DESIGNATED  
18 REPRESENTATIVE WITH A COPY OF THE POLICY ESTABLISHED UNDER SECTION  
19 20201 AND THIS SECTION DESCRIBING THE RIGHTS AND RESPONSIBILITIES  
20 OF PATIENTS AND CLIENTS SERVED BY THE IN-HOME CARE SERVICES AGENCY.  
21 IF A CONFLICT EXISTS BETWEEN A REQUIREMENT OF THIS SECTION AND  
22 SECTION 20201, THE REQUIREMENT OF THIS SECTION PREVAILS. THE POLICY  
23 SHALL INCLUDE, AT A MINIMUM, ALL OF THE FOLLOWING:

24 (A) A LISTING OF THE HOME HEALTH SERVICES OFFERED BY THE IN-  
25 HOME CARE SERVICES AGENCY AND THOSE BEING PROVIDED.

26 (B) THE NAMES OF THE ADMINISTRATOR AND THE DIRECTOR OF  
27 CLINICAL SERVICES AND THE MANNER IN WHICH THOSE INDIVIDUALS MAY BE



1 CONTACTED.

2 (C) THE JOB TITLE OF THE INDIVIDUAL SUPERVISING THE PATIENTS'  
3 OR CLIENTS' CARE AND THE MANNER IN WHICH THAT INDIVIDUAL MAY BE  
4 CONTACTED.

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

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

10 (F) THAT THE PATIENT OR CLIENT OR THE PATIENT'S OR CLIENT'S  
11 DESIGNATED REPRESENTATIVE MAY SELECT ANY LICENSEE TO PROVIDE HOME  
12 HEALTH SERVICES, SUBJECT TO THE PATIENT'S OR CLIENT'S REIMBURSEMENT  
13 MECHANISM OR OTHER RELEVANT CONTRACTUAL OBLIGATIONS.

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

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

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

24 (J) THAT THE PATIENT OR CLIENT, IN COMPLIANCE WITH 42 USC  
25 1395CC, WILL RECEIVE INFORMATION ABOUT HIS OR HER RIGHT TO EXECUTE  
26 AN ADVANCE HEALTH CARE DIRECTIVE OR DURABLE POWER OF ATTORNEY AND  
27 DESIGNATION OF PATIENT ADVOCATE AND THE IN-HOME CARE SERVICES

1 AGENCY'S RESPONSIBILITY TO IMPLEMENT THOSE DOCUMENTS.

2 (K) THAT THE PATIENT OR CLIENT WILL BE INFORMED THAT THE IN-  
3 HOME CARE SERVICES AGENCY'S CAREGIVERS HAVE EXTENSIVE TRAINING,  
4 THAT THE AGENCY'S CAREGIVERS ARE SUPERVISED, THAT THE AGENCY'S  
5 CAREGIVERS HAVE UNDERGONE A CRIMINAL HISTORY CHECK, AND THAT THE  
6 AGENCY'S CAREGIVERS ARE TESTED FOR TUBERCULOSIS AND OTHER  
7 COMMUNICABLE DISEASES.

8 (I) THAT THE AGENCY ENSURES THAT ALL EMPLOYMENT LAWS ARE  
9 FOLLOWED, THAT THE AGENCY'S CAREGIVERS ARE BONDED OR INSURED, OR  
10 BOTH AS APPLICABLE, AND THAT THE AGENCY IS RESPONSIBLE FOR PAYMENT  
11 OF ALL REQUIRED FEDERAL AND STATE EMPLOYMENT TAXES AND LIABILITY  
12 AND WORKER'S DISABILITY COMPENSATION INSURANCE.

13 (2) AN IN-HOME CARE SERVICES AGENCY SHALL TREAT PATIENTS AND  
14 CLIENTS IN ACCORDANCE WITH THE POLICY ESTABLISHED UNDER SECTION  
15 20201 AND THIS SECTION. AN IN-HOME CARE SERVICES AGENCY SHALL  
16 IMPLEMENT AND UPDATE ITS POLICY AS APPROPRIATE.

17 SEC. 21841. IN ADDITION TO THE AUTHORITY UNDER SECTION 20165  
18 TO DENY, LIMIT, SUSPEND, OR REVOKE A LICENSE UNDER THIS PART OR  
19 IMPOSE AN ADMINISTRATIVE FINE, THE DEPARTMENT MAY REQUIRE A REFUND  
20 OF ANY AMOUNTS BILLED TO, AND COLLECTED FROM, THE PATIENT OR CLIENT  
21 OR THIRD-PARTY PAYER IN ANY CASE IN WHICH THE DEPARTMENT DETERMINES  
22 THAT ANY OF THE VIOLATIONS DESCRIBED IN SECTION 20165(1) OR (2)  
23 HAVE OCCURRED.

24 SEC. 21843. (1) NOTWITHSTANDING SECTION 20155, THE DEPARTMENT  
25 MAY AT ANY TIME CONDUCT A SURVEY OF ALL RECORDS AND OPERATIONS OF A  
26 LICENSEE IN ORDER TO DETERMINE COMPLIANCE WITH THIS PART.  
27 ADDITIONALLY, THE DEPARTMENT MAY CONDUCT VISITS TO OBSERVE CARE AND

1 SERVICES TO A PATIENT OR CLIENT IN HIS OR HER RESIDENCE. THE RIGHT  
2 TO CONDUCT A SURVEY SHALL EXTEND TO ANY PREMISES AND RECORDS OF  
3 PERSONS WHO THE DEPARTMENT HAS REASON TO BELIEVE ARE PROVIDING HOME  
4 HEALTH SERVICES WITHOUT A LICENSE IN VIOLATION OF THIS PART.

5 (2) FOLLOWING A SURVEY UNDER THIS SECTION, THE DEPARTMENT  
6 SHALL PROCEED IN THE MANNER PRESCRIBED IN PART 201 WITH REGARD TO  
7 NOTICE, RIGHT TO HEARING, AND FINAL DETERMINATION OF THE MATTER. IF  
8 REQUESTED, THE LICENSEE SHALL SUBMIT TO THE DEPARTMENT A WRITTEN  
9 PLAN OF CORRECTION WITHIN THE TIME FRAME DESIGNATED ON THE NOTICE.  
10 THE DEPARTMENT SHALL PROVIDE THE LICENSEE WITH WRITTEN NOTICE OF  
11 THE ACCEPTANCE OF THE WRITTEN PLAN OF CORRECTION, OR ANY CHANGES  
12 NECESSARY IN ORDER FOR THE WRITTEN PLAN OF CORRECTION TO BE  
13 ACCEPTABLE TO THE DEPARTMENT.

14 SEC. 21845. ANY PENALTIES OR REMEDIES PROVIDED IN THIS PART OR  
15 PART 201 ARE INDEPENDENT AND CUMULATIVE AND NOT EXCLUSIVE. NEITHER  
16 THE DEPARTMENT NOR ANY OTHER PERSON IS LIMITED TO THE PENALTIES AND  
17 REMEDIES IN THIS PART OR PART 201. THE USE OF A PENALTY OR REMEDY  
18 BY A PERSON SHALL NOT BE CONSIDERED A BAR TO THE USE OF OTHER  
19 PENALTIES OR REMEDIES BY THAT PERSON OR TO THE USE OF ANY PENALTY  
20 OR REMEDY BY ANOTHER PERSON.

21 SEC. 21847. (1) A PERSON WHO VIOLATES THIS PART BY OPERATING  
22 AN IN-HOME CARE SERVICES AGENCY WITHOUT A LICENSE IS GUILTY OF A  
23 MISDEMEANOR. EACH DAY OF THE VIOLATION IS CONSIDERED A SEPARATE  
24 VIOLATION.

25 (2) IF THE PERSON WHO VIOLATES THIS PART BY OPERATING AN IN-  
26 HOME CARE SERVICES AGENCY WITHOUT A LICENSE IS A CORPORATION, IT  
27 MAY BE PUNISHED BY FORFEITURE OF ITS CORPORATE CHARTER AND ALL

1 RIGHTS AND FRANCHISES UNDER THAT CHARTER.

2 (3) A PERSON WHO VIOLATES THIS PART BY OPERATING AN IN-HOME  
3 CARE SERVICES AGENCY WITHOUT A LICENSE IS SUBJECT TO AN  
4 ADMINISTRATIVE FINE OF UP TO THE AMOUNT OF THE APPLICABLE LICENSE  
5 FEE FOR EACH VIOLATION OR EACH DAY THAT A VIOLATION CONTINUES. IF  
6 THE DEPARTMENT HAS REASONABLE CAUSE TO BELIEVE THAT A PERSON HAS  
7 VIOLATED THIS PART, THE DEPARTMENT MAY ISSUE A CITATION AFTER  
8 DISCOVERY OF THE ALLEGED VIOLATION. THE CITATION SHALL BE WRITTEN  
9 AND SHALL STATE WITH PARTICULARITY THE NATURE OF THE VIOLATION AS  
10 REQUIRED BY THE ADMINISTRATIVE PROCEDURES ACT OF 1969. AN ALLEGED  
11 VIOLATOR MAY REQUEST AN ADMINISTRATIVE HEARING PURSUANT TO THE  
12 ADMINISTRATIVE PROCEDURES ACT OF 1969. THE DEPARTMENT SHALL FORWARD  
13 ADMINISTRATIVE FINES COLLECTED UNDER THIS SECTION TO THE STATE  
14 TREASURER FOR DEPOSIT IN THE IN-HOME CARE FUND CREATED IN SECTION  
15 21853.

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

25 (2) UPON A VIOLATION OF A CEASE AND DESIST ORDER ISSUED UNDER  
26 SUBSECTION (1), THE DEPARTMENT OF ATTORNEY GENERAL MAY APPLY IN  
27 CIRCUIT COURT TO RESTRAIN AND ENJOIN, TEMPORARILY OR PERMANENTLY,

1 AN INDIVIDUAL FROM FURTHER VIOLATING THE CEASE AND DESIST ORDER.

2 SEC. 21851. A PERSON WHO VIOLATES THIS PART BY OPERATING AN  
3 IN-HOME CARE SERVICES AGENCY WITHOUT A LICENSE IS ALSO SUBJECT TO  
4 THE MICHIGAN CONSUMER PROTECTION ACT, 1976 PA 331, MCL 445.901 TO  
5 445.922, BECAUSE THE OPERATION OF AN IN-HOME CARE SERVICES AGENCY  
6 WITHOUT A LICENSE IN VIOLATION OF THIS PART IS NOT REASONABLE IN  
7 RELATION TO THE DEVELOPMENT AND PRESERVATION OF BUSINESS AND IS AN  
8 UNFAIR, UNCONSCIONABLE, OR DECEPTIVE METHOD, ACT, OR PRACTICE IN  
9 THE CONDUCT OF TRADE OR COMMERCE.

10 SEC. 21853. (1) THE IN-HOME CARE FUND IS CREATED WITHIN THE  
11 STATE TREASURY.

12 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM  
13 ANY SOURCE FOR DEPOSIT INTO THE IN-HOME CARE FUND. THE STATE  
14 TREASURER SHALL DIRECT THE INVESTMENT OF THE IN-HOME CARE FUND. THE  
15 STATE TREASURER SHALL CREDIT TO THE IN-HOME CARE FUND INTEREST AND  
16 EARNINGS FROM FUND INVESTMENTS. MONEY IN THE IN-HOME CARE FUND AT  
17 THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE IN-HOME CARE FUND  
18 AND SHALL NOT LAPSE TO THE GENERAL FUND.

19 (3) THE DEPARTMENT IS THE ADMINISTRATOR OF THE IN-HOME CARE  
20 FUND FOR AUDITING PURPOSES. THE DEPARTMENT SHALL EXPEND MONEY FROM  
21 THE IN-HOME CARE FUND, UPON APPROPRIATION, ONLY FOR THE DIRECT AND  
22 INDIRECT COSTS OF THE DEPARTMENT IN ADMINISTERING THIS PART. THE  
23 DEPARTMENT SHALL ENSURE THAT EXPENDITURES UNDER THIS SUBSECTION ARE  
24 RELATED TO IN-HOME CARE NEEDS.

25 Enacting section 1. This amendatory act takes effect January  
26 1, 2014.