



HOUSE BILL No. 4260

February 17, 1993, Introduced by Reps. Dalman, Whyman, Hammerstrom, McManus, Bodem, Middaugh, Baade, DeMars, Palamara, Sikkema, Gnodtke, Olshove, Harder, Walberg, Llewellyn, Porreca, Scott, Ciaramitaro, Nye, Horton, Randall, Kaza, Jacobetti, Bandstra, Rocca, Goschka, Weeks, McBryde, Voorhees, Shugars, Lowe, Mathieu, Cropsey, Stille, Gernaat, London, Gustafson, Richard A. Young, Griffin, Jamian, Keith, DeLange, Allen, Rhead, Gagliardi, Owen, Jaye and Kukuk and referred to the Committee on Public Health.

A bill to amend sections 16221 and 16226 of Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code," as amended by Act No. 15 of the Public Acts of 1989, being sections 333.16221 and 333.16226 of the Michigan Compiled Laws; and to add sections 17014, 17015, and 17515.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 16221 and 16226 of Act No. 368 of the
2 Public Acts of 1978, as amended by Act No. 15 of the Public Acts
3 of 1989, being sections 333.16221 and 333.16226 of the Michigan
4 Compiled Laws, are amended and sections 17014, 17015, and 17515
5 are added to read as follows:

6 Sec. 16221. The department may investigate activities
7 related to the practice of a health profession by a licensee, a
8 registrant, or an applicant for licensure or registration. The

1 department may hold hearings, administer oaths, and order
2 relevant testimony to be taken and shall report its findings to
3 the appropriate board or appropriate task force. ~~The~~ A board
4 shall proceed under section 16226 if the board finds that any of
5 the following grounds exist:

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

12 (b) Personal disqualifications, consisting of any of the
13 following:

14 (i) Incompetence.

15 (ii) Substance abuse as defined in section 6107.

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

19 (iv) Declaration of mental incompetence by a court of compe-
20 tent jurisdiction.

21 (v) Conviction of a misdemeanor or felony reasonably related
22 to and adversely affecting the licensee's ability to practice in
23 a safe and competent manner. A certified copy of the court
24 record ~~shall be~~ IS conclusive evidence of the conviction.

25 (vi) Lack of good moral character.

26 (vii) Conviction of a criminal offense under sections ~~520a~~
27 ~~to 520f~~ 520B TO 520G of the Michigan penal code, Act No. 328 of

1 the Public Acts of 1931, being sections ~~750.520a to 750.520f~~
2 750.520B TO 750.520G of the Michigan Compiled Laws. A certified
3 copy of the court record ~~shall be~~ IS conclusive evidence of the
4 conviction.

5 (viii) Conviction of a violation of section 492a of the
6 Michigan penal code, Act No. 328 of the Public Acts of 1931,
7 being section 750.492a of the Michigan Compiled Laws. A certi-
8 fied copy of the court record ~~shall be~~ IS conclusive evidence
9 of the conviction.

10 (ix) Conviction of a misdemeanor or felony involving fraud
11 in obtaining or attempting to obtain fees related to the practice
12 of a health profession. A certified copy of the court record
13 ~~shall be~~ IS conclusive evidence of the conviction.

14 (c) Prohibited acts, consisting of any of the following:

15 (i) Fraud or deceit in obtaining or renewing a license.

16 (ii) Permitting the license to be used by an unauthorized
17 person.

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

19 (iv) Obtaining, possessing, or attempting to obtain or pos-
20 sess a controlled substance as defined in section 7104 or a drug
21 as defined in section 7105 without lawful authority; or selling,
22 prescribing, giving away, or administering drugs for other than
23 lawful diagnostic or therapeutic purposes.

24 (d) Unethical business practices, consisting of any of the
25 following:

26 (i) False or misleading advertising.

1 (ii) Dividing fees for referral of patients or accepting
2 kickbacks on medical or surgical services, appliances, or
3 medications purchased by or ~~in~~ ON behalf of patients.

4 (iii) Fraud or deceit in obtaining or attempting to obtain
5 third party reimbursement.

6 (e) Unprofessional conduct, consisting of any of the
7 following:

8 (i) Misrepresentation to a consumer or patient or in obtain-
9 ing or attempting to obtain third party reimbursement in the
10 course of professional practice.

11 (ii) Betrayal of a professional confidence.

12 (iii) Promotion for personal gain of an unnecessary drug,
13 device, treatment, procedure, or service.

14 (iv) Directing or requiring an individual to purchase or
15 secure a drug, device, treatment, procedure, or service from
16 another person, place, facility, or business in which the
17 licensee has a financial interest.

18 (f) Failure to report a change of name or address within 30
19 days after the change occurs.

20 (g) A violation, or aiding or abetting in a violation, of
21 this article or of rules promulgated under this article.

22 (h) Failure to comply with a subpoena issued pursuant to
23 this part.

24 (i) Failure to pay an installment of an assessment levied
25 pursuant to section 2504 of the insurance code of 1956, Act
26 No. 218 of the Public Acts of 1956, as amended, being section

1 500.2504 of the Michigan Compiled Laws, within 60 days after
2 notice by the appropriate board.

3 (j) A violation of section 17013 or 17513.

4 (K) A VIOLATION OF SECTION 17015 OR 17515.

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

9 Violations of Section 16221

Sanctions

10 Subdivision (a),	Probation, limitation, denial,
11 (b)(ii),	suspension, revocation,
12 (b)(iv),	restitution, or fine.
13 (b)(vi), or	
14 (b)(vii)	
15 Subdivision (b)(viii)	Revocation.
16 Subdivision (b)(i),	Limitation, suspension,
17 (b)(iii),	revocation, denial,
18 (b)(v), or (b)(ix)	probation, restitution, or
19	fine.
20 Subdivision (c)(i)	Denial, revocation, suspension,
21	probation, limitation, or
22	fine.
23 Subdivision (c)(ii)	Denial, suspension, revocation,
24	restitution, or fine.

1 Subdivision (c)(iii)	Probation, denial, suspension,
2	revocation, restitution, or
3	fine.
4 Subdivision (c)(iv)	Fine, probation, denial,
5 or (d)(iii)	suspension, revocation,
6	or restitution.
7 Subdivision (d)(i)	Reprimand, fine, probation,
8 or (d)(ii)	or restitution.
9 Subdivision (e)(i)	Reprimand, fine, probation,
10	limitation, suspension, or
11	restitution.
12 Subdivision (e)(ii)	Reprimand, probation,
13 or (h)	suspension, restitution, or
14	fine.
15 Subdivision (e)(iii)	Reprimand, fine, probation,
16 or (e)(iv)	suspension, revocation, limita-
17	tion, or restitution.
18 Subdivision (f)	Reprimand or fine.
19 Subdivision (g)	Reprimand, probation, denial,
20	suspension, revocation, limita-
21	tion, restitution, or fine.
22 Subdivision (i)	Suspension or fine.
23 Subdivision (j)	Reprimand or fine.
24 SUBDIVISION (K)	DENIAL, REVOCATION, RESTITUTION,
25	PROBATION, SUSPENSION, LIMITA-
26	TION, REPRIMAND, OR FINE.

1 (2) Determination of sanctions for violations under section
2 16226 shall be made by a board. If, during judicial review, a
3 court holds that a sanction is unlawful under section 106 of the
4 administrative procedures act of 1969, Act No. 306 of the Public
5 Acts of 1969, being section 24.306 of the Michigan Compiled Laws,
6 the court shall state on the record the reasons for the holding
7 and may remand the case to the board for further consideration.

8 (3) A board created under part 170 or 175 may impose a fine
9 of up to, but not exceeding, \$250,000.00 for a violation of
10 section 16221(a) or (b).

11 SEC. 17014. THE LEGISLATURE RECOGNIZES THAT UNDER FEDERAL
12 CONSTITUTIONAL LAW, A STATE IS PERMITTED TO ENACT PERSUASIVE MEA-
13 SURES WHICH FAVOR CHILDBIRTH OVER ABORTION, EVEN IF THOSE MEA-
14 SURES DO NOT FURTHER A HEALTH INTEREST. SECTIONS 17015 AND 17515
15 ARE NEVERTHELESS DESIGNED TO PROVIDE OBJECTIVE, TRUTHFUL INFORMA-
16 TION, AND ARE NOT INTENDED TO BE PERSUASIVE. THE LEGISLATURE
17 FINDS THAT THE ENACTMENT OF SECTIONS 17015 AND 17515 IS ESSENTIAL
18 FOR ALL OF THE FOLLOWING REASONS:

19 (A) THE KNOWLEDGEABLE EXERCISE OF A WOMAN'S DECISION TO HAVE
20 AN ABORTION DEPENDS ON THE EXTENT TO WHICH THE WOMAN RECEIVES
21 SUFFICIENT INFORMATION TO MAKE AN INFORMED CHOICE REGARDING
22 ABORTION.

23 (B) THE DECISION TO OBTAIN AN ABORTION IS AN IMPORTANT AND
24 OFTEN STRESSFUL ONE, AND IT IS IN THE STATE'S INTEREST THAT THE
25 DECISION BE MADE WITH FULL KNOWLEDGE OF ITS NATURE AND
26 CONSEQUENCES.

1 (C) ENACTMENT OF SECTIONS 17015 AND 17515 IS NECESSARY TO
2 ENSURE THAT, BEFORE AN ABORTION, A WOMAN IS PROVIDED INFORMATION
3 REGARDING HER AVAILABLE ALTERNATIVES, AND TO ENSURE THAT A WOMAN
4 GIVES HER VOLUNTARY AND INFORMED CONSENT TO AN ABORTION.

5 (D) THE RECEIPT OF ACCURATE INFORMATION ABOUT ABORTION AND
6 ITS ALTERNATIVES IS ESSENTIAL TO THE PHYSICAL AND PSYCHOLOGICAL
7 WELL-BEING OF A WOMAN CONSIDERING AN ABORTION.

8 (E) BECAUSE MANY ABORTIONS IN THIS STATE ARE PERFORMED IN
9 CLINICS DEVOTED SOLELY TO PROVIDING ABORTIONS, WOMEN WHO SEEK
10 ABORTIONS AT THESE FACILITIES NORMALLY DO NOT HAVE A PRIOR
11 PATIENT-PHYSICIAN RELATIONSHIP WITH THE PHYSICIAN PERFORMING THE
12 ABORTION NOR DO THESE WOMEN CONTINUE A PATIENT-PHYSICIAN RELA-
13 TIONSHIP WITH THE PHYSICIAN AFTER THE ABORTION. IN MANY
14 INSTANCES, THE WOMAN'S ONLY ACTUAL CONTACT WITH THE PHYSICIAN
15 PERFORMING THE ABORTION OCCURS SIMULTANEOUSLY WITH THE ABORTION
16 PROCEDURE, WITH LITTLE OPPORTUNITY TO RECEIVE COUNSEL CONCERNING
17 HER DECISION. CONSEQUENTLY, CERTAIN SAFEGUARDS ARE NECESSARY TO
18 PROTECT A WOMAN'S OPPORTUNITY TO SELECT THE OPTION BEST SUITED TO
19 HER PARTICULAR SITUATION.

20 (F) THIS STATE HAS AN INTEREST IN PROTECTING WOMEN AND,
21 SUBJECT TO UNITED STATES CONSTITUTIONAL LIMITATIONS AND SUPREME
22 COURT DECISIONS, THIS STATE HAS AN INTEREST IN PROTECTING THE
23 FETUS.

24 (G) PROVIDING A WOMAN WITH FACTUAL, MEDICAL, AND BIOLOGICAL
25 INFORMATION ABOUT THE FETUS SHE IS CARRYING IS ESSENTIAL TO SAFE-
26 GUARD THE STATE'S INTERESTS DESCRIBED IN SUBDIVISION (F). THE
27 DISSEMINATION OF THE INFORMATION SET FORTH IN SECTIONS 17015 AND

1 17515 IS NECESSARY DUE TO THE IRREVERSIBLE NATURE OF THE ACT OF
2 ABORTION AND THE OFTEN STRESSFUL CIRCUMSTANCES UNDER WHICH THE
3 ABORTION DECISION IS MADE.

4 (H) THE SAFEGUARDS THAT WILL BEST PROTECT A WOMAN SEEKING
5 ADVICE CONCERNING ABORTION INCLUDE THE FOLLOWING:

6 (i) PRIVATE, INDIVIDUAL COUNSELING, INCLUDING DISSEMINATION
7 OF CERTAIN INFORMATION, AS THE WOMAN'S INDIVIDUAL CIRCUMSTANCES
8 DICTATE, THAT AFFECT HER DECISION OF WHETHER TO CHOOSE AN
9 ABORTION.

10 (ii) A 24-HOUR WAITING PERIOD BETWEEN A WOMAN'S RECEIPT OF
11 THAT INFORMATION PROVIDED TO ASSIST HER IN MAKING AN INFORMED
12 DECISION, AND THE ACTUAL PERFORMANCE OF AN ABORTION, IF SHE
13 ELECTS TO UNDERGO AN ABORTION. A 24-HOUR WAITING PERIOD AFFORDS
14 A WOMAN, IN LIGHT OF THE INFORMATION PROVIDED BY THE PHYSICIAN OR
15 A QUALIFIED PERSON ASSISTING THE PHYSICIAN, AN OPPORTUNITY TO
16 REFLECT ON HER DECISION AND TO SEEK COUNSEL OF FAMILY AND FRIENDS
17 IN MAKING HER DECISION.

18 (I) THE SAFEGUARDS IDENTIFIED IN SUBDIVISION (H) ADVANCE A
19 WOMAN'S INTERESTS IN THE EXERCISE OF HER DISCRETION TO CHOOSE OR
20 NOT TO CHOOSE AN ABORTION, AND ARE JUSTIFIED BY THE OBJECTIVES
21 AND INTERESTS OF THIS STATE TO PROTECT THE HEALTH OF A PREGNANT
22 WOMAN AND, SUBJECT TO UNITED STATES CONSTITUTIONAL LIMITATIONS
23 AND SUPREME COURT DECISIONS, TO PROTECT THE FETUS.

24 SEC. 17015. (1) A PHYSICIAN SHALL NOT PERFORM AN ABORTION
25 OTHERWISE PERMITTED BY LAW WITHOUT THE PATIENT'S INFORMED WRITTEN
26 CONSENT, GIVEN FREELY AND WITHOUT COERCION.

1 (2) FOR PURPOSES OF THIS SECTION:

2 (A) "ABORTION" MEANS THE INTENTIONAL USE OF AN INSTRUMENT,
3 DRUG, OR OTHER SUBSTANCE OR DEVICE TO TERMINATE A WOMAN'S PREG-
4 NANCY FOR A PURPOSE OTHER THAN TO INCREASE THE PROBABILITY OF A
5 LIVE BIRTH, TO PRESERVE THE LIFE OR HEALTH OF THE CHILD AFTER
6 LIVE BIRTH, OR TO REMOVE A DEAD FETUS. ABORTION DOES NOT INCLUDE
7 THE USE OR PRESCRIPTION OF A DRUG OR DEVICE INTENDED AS A
8 CONTRACEPTIVE.

9 (B) "FETUS" MEANS AN INDIVIDUAL ORGANISM OF THE SPECIES HOMO
10 SAPIENS IN UTERO.

11 (C) "MEDICAL EMERGENCY" MEANS THAT CONDITION WHICH, ON THE
12 BASIS OF THE PHYSICIAN'S GOOD FAITH CLINICAL JUDGMENT, SO COMPLI-
13 CATES THE MEDICAL CONDITION OF A PREGNANT WOMAN AS TO NECESSITATE
14 THE IMMEDIATE ABORTION OF HER PREGNANCY TO AVERT HER DEATH OR FOR
15 WHICH A DELAY WILL CREATE SERIOUS RISK OF SUBSTANTIAL AND IRRE-
16 VERSIBLE IMPAIRMENT OF A MAJOR BODILY FUNCTION.

17 (D) "QUALIFIED PERSON ASSISTING THE PHYSICIAN" MEANS ANOTHER
18 PHYSICIAN OR A PHYSICIAN'S ASSISTANT LICENSED UNDER THIS PART OR
19 PART 175, A PSYCHOLOGIST LICENSED UNDER PART 182, A PROFESSIONAL
20 COUNSELOR LICENSED UNDER PART 181, A REGISTERED NURSE LICENSED
21 UNDER PART 172, OR A SOCIAL WORKER REGISTERED IN THIS STATE UNDER
22 ARTICLE 16 OF THE OCCUPATIONAL CODE, ACT NO. 299 OF THE PUBLIC
23 ACTS OF 1980, BEING SECTIONS 339.1601 TO 339.1610 OF THE MICHIGAN
24 COMPILED LAWS.

25 (E) "PROBABLE GESTATIONAL AGE OF THE FETUS" MEANS THE GESTA-
26 TIONAL AGE OF THE FETUS AT THE TIME AN ABORTION IS PLANNED TO BE
27 PERFORMED, AS DETERMINED BY THE ATTENDING PHYSICIAN.

1 (3) SUBJECT TO SUBSECTION (7), A PHYSICIAN OR A QUALIFIED
2 PERSON ASSISTING THE PHYSICIAN SHALL DO ALL OF THE FOLLOWING NOT
3 LESS THAN 24 HOURS BEFORE THAT PHYSICIAN PERFORMS AN ABORTION
4 UPON A PREGNANT WOMAN:

5 (A) CONFIRM THAT, ACCORDING TO THE BEST MEDICAL JUDGMENT OF
6 A PHYSICIAN, THE PATIENT IS PREGNANT.

7 (B) INFORM THE PATIENT OF THE NAME OF THE PHYSICIAN WHO WILL
8 PERFORM THE ABORTION.

9 (C) ORALLY DESCRIBE, IN LANGUAGE DESIGNED TO BE UNDERSTOOD
10 BY THE PREGNANT WOMAN, TAKING INTO ACCOUNT HER AGE, LEVEL OF
11 MATURITY, AND INTELLECTUAL CAPABILITY, EACH OF THE FOLLOWING:

12 (i) THE PROBABLE GESTATIONAL AGE OF THE FETUS SHE IS
13 CARRYING.

14 (ii) INFORMATION ABOUT WHAT TO DO AND WHOM TO CONTACT SHOULD
15 MEDICAL COMPLICATIONS ARISE FROM THE ABORTION.

16 (iii) INFORMATION ABOUT HOW TO OBTAIN PREGNANCY PREVENTION
17 INFORMATION THROUGH THE DEPARTMENT OF PUBLIC HEALTH.

18 (D) PRESENT TO THE PATIENT THE WRITTEN SUMMARY DESCRIBED IN
19 SUBSECTION (8)(B) THAT CORRESPONDS TO THE PROCEDURE THE PATIENT
20 WILL UNDERGO AND IS PROVIDED BY THE DEPARTMENT OF PUBLIC HEALTH
21 OR APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH UNDER
22 SUBSECTION (8)(E).

23 (E) PROVIDE THE PATIENT WITH A COPY OF A MEDICALLY ACCURATE
24 DEPICTION AND DESCRIPTION OF A FETUS SUPPLIED BY THE DEPARTMENT
25 OF PUBLIC HEALTH PURSUANT TO SUBSECTION (8)(A) AT THE GESTATIONAL
26 AGE NEAREST THE PROBABLE GESTATIONAL AGE OF THE PATIENT'S FETUS.

1 (4) THE REQUIREMENTS OF SUBSECTION (3) MAY BE FULFILLED BY
2 THE PHYSICIAN OR A QUALIFIED PERSON ASSISTING THE PHYSICIAN AT A
3 LOCATION OTHER THAN THE HEALTH FACILITY WHERE THE ABORTION IS TO
4 BE PERFORMED.

5 (5) BEFORE PERFORMING AN ABORTION, A PHYSICIAN SHALL DO ALL
6 OF THE FOLLOWING:

7 (A) INFORM THE PATIENT OF HER RIGHT TO WITHHOLD OR WITHDRAW
8 HER CONSENT TO THE ABORTION AT ANY TIME BEFORE PERFORMANCE OF THE
9 ABORTION.

10 (B) ORALLY DESCRIBE, IN LANGUAGE DESIGNED TO BE UNDERSTOOD
11 BY THE PREGNANT WOMAN, TAKING INTO ACCOUNT HER AGE, LEVEL OF
12 MATURITY, AND INTELLECTUAL CAPABILITY, EACH OF THE FOLLOWING:

13 (i) THE SPECIFIC RISK, IF ANY, TO THE PATIENT OF THE COMPLI-
14 CATIONS THAT HAVE BEEN ASSOCIATED WITH THE PROCEDURE THE PATIENT
15 WILL UNDERGO, BASED ON THE PATIENT'S PARTICULAR MEDICAL CONDITION
16 AND HISTORY AS DETERMINED BY THE PHYSICIAN.

17 (ii) THE SPECIFIC RISK OF COMPLICATIONS TO THE PATIENT IF
18 SHE CHOOSES TO CONTINUE THE PREGNANCY BASED ON THE PATIENT'S PAR-
19 TICULAR MEDICAL CONDITION AND HISTORY AS DETERMINED BY A
20 PHYSICIAN.

21 (C) OBTAIN THE PATIENT'S SIGNATURE, ON A FORM PREPARED OR
22 APPROVED BY THE DEPARTMENT, CONSENTING TO THE ABORTION AND
23 ACKNOWLEDGING THAT SHE HAS RECEIVED THE INFORMATION REQUIRED IN
24 SUBSECTION (3). THE PHYSICIAN SHALL RETAIN A COPY OF THE
25 ACKNOWLEDGMENT AND CONSENT FORM IN THE PATIENT'S MEDICAL RECORD.

1 (D) PROVIDE THE PATIENT WITH A COPY OF THE WRITTEN
2 ACKNOWLEDGMENT AND CONSENT FORM DESCRIBED IN SUBSECTION (8)(C),
3 OR APPROVED BY THE DEPARTMENT UNDER SUBSECTION (8)(E).

4 (6) TO PROTECT A WOMAN'S PRIVACY, THE INFORMATION SET FORTH
5 IN SUBSECTION (3) AND SUBSECTION (5) SHALL NOT BE DISCLOSED TO
6 THE WOMAN IN THE PRESENCE OF ANOTHER PATIENT.

7 (7) IF THE ATTENDING PHYSICIAN, UTILIZING HIS OR HER
8 EXPERIENCE, JUDGMENT, AND PROFESSIONAL COMPETENCE, DETERMINES
9 THAT A MEDICAL EMERGENCY EXISTS AND NECESSITATES PERFORMANCE OF
10 AN ABORTION BEFORE THE REQUIREMENTS OF SUBSECTION (3) AND
11 SUBSECTION (5) CAN BE MET, THE PHYSICIAN IS EXEMPT FROM THE
12 REQUIREMENTS OF SUBSECTION (3) AND SUBSECTION (5), MAY PERFORM
13 THE ABORTION, AND SHALL MAINTAIN A WRITTEN RECORD IDENTIFYING
14 WITH SPECIFICITY THE MEDICAL FACTORS UPON WHICH THE DETERMINATION
15 OF THE MEDICAL EMERGENCY IS BASED.

16 (8) THE DEPARTMENT OF PUBLIC HEALTH SHALL DO EACH OF THE
17 FOLLOWING:

18 (A) PRODUCE MEDICALLY ACCURATE DEPICTIONS OF THE DEVELOPMENT
19 OF A HUMAN FETUS WHICH REFLECT THE ACTUAL SIZE OF THE FETUS AT
20 4-WEEK INTERVALS FROM THE FOURTH WEEK THROUGH THE TWENTY-EIGHTH
21 WEEK OF GESTATION, USING CURRICULUM MATERIALS FROM THE MICHIGAN
22 MODEL FOR COMPREHENSIVE SCHOOL HEALTH EDUCATION FOR GRADE 6,
23 PHASE IV, LESSON 22 IN USE ON JANUARY 1, 1992. EACH DEPICTION
24 SHALL BE ACCOMPANIED BY A PRINTED DESCRIPTION, IN NONTECHNICAL
25 ENGLISH AND SPANISH, OF THE PROBABLE ANATOMICAL AND PHYSIOLOGICAL
26 CHARACTERISTICS OF THE FETUS AT THAT PARTICULAR STATE OF
27 GESTATIONAL DEVELOPMENT.

1 (B) DEVELOP, DRAFT, AND PRINT, IN NONTECHNICAL ENGLISH AND
2 SPANISH, WRITTEN STANDARDIZED SUMMARIES, BASED UPON THE VARIOUS
3 MEDICAL PROCEDURES USED TO ABORT PREGNANCIES, THAT DO EACH OF THE
4 FOLLOWING:

5 (i) DESCRIBE, INDIVIDUALLY AND ON SEPARATE DOCUMENTS, THOSE
6 MEDICAL PROCEDURES USED TO PERFORM ABORTIONS IN THIS STATE THAT
7 ARE RECOGNIZED BY THE DEPARTMENT.

8 (ii) IDENTIFY THE PHYSICAL COMPLICATIONS THAT HAVE BEEN
9 ASSOCIATED WITH EACH PROCEDURE DESCRIBED IN SUBPARAGRAPH (i) AND
10 WITH LIVE BIRTH, AS DETERMINED BY THE DEPARTMENT. IN IDENTIFYING
11 THESE COMPLICATIONS, THE DEPARTMENT SHALL CONSIDER THE ANNUAL
12 STATISTICAL REPORT REQUIRED UNDER SECTION 2835(6), AND SHALL CON-
13 SULT WITH THE UNITED STATES CENTER FOR DISEASE CONTROL, THE AMER-
14 ICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS, THE MICHIGAN
15 STATE MEDICAL SOCIETY, OR ANY OTHER SOURCE THAT THE DEPARTMENT
16 DETERMINES APPROPRIATE.

17 (iii) STATE THAT AS THE RESULT OF AN ABORTION, SOME WOMEN
18 MAY EXPERIENCE DEPRESSION, FEELINGS OF GUILT, SLEEP DISTURBANCE,
19 LOSS OF INTEREST IN WORK OR SEX, OR ANGER, AND THAT IF THESE
20 SYMPTOMS OCCUR AND ARE INTENSE OR PERSISTENT, PROFESSIONAL HELP
21 IS RECOMMENDED.

22 (iv) STATE THAT NOT ALL OF THE RISKS LISTED IN SUBPARAGRAPH
23 (ii) MAY PERTAIN TO THAT PARTICULAR PATIENT AND REFER THE PATIENT
24 TO HER PHYSICIAN FOR MORE PERSONALIZED INFORMATION.

25 (v) IDENTIFY SERVICES AVAILABLE THROUGH PUBLIC AGENCIES TO
26 ASSIST THE PATIENT DURING HER PREGNANCY AND AFTER THE BIRTH OF

1 HER CHILD, SHOULD SHE CHOOSE TO GIVE BIRTH AND MAINTAIN CUSTODY
2 OF HER CHILD.

3 (vi) IDENTIFY SERVICES AVAILABLE THROUGH PUBLIC AGENCIES TO
4 ASSIST THE PATIENT IN PLACING HER CHILD IN AN ADOPTIVE OR FOSTER
5 HOME, SHOULD SHE CHOOSE TO GIVE BIRTH BUT NOT MAINTAIN CUSTODY OF
6 HER CHILD.

7 (vii) IDENTIFY SERVICES AVAILABLE THROUGH PUBLIC AGENCIES TO
8 ASSIST THE PATIENT AND PROVIDE COUNSELING SHOULD SHE EXPERIENCE
9 SUBSEQUENT ADVERSE PSYCHOLOGICAL EFFECTS FROM THE ABORTION.

10 (C) DEVELOP, DRAFT, AND PRINT, IN NONTECHNICAL ENGLISH AND
11 SPANISH, AN ACKNOWLEDGMENT AND CONSENT FORM THAT INCLUDES ONLY
12 THE FOLLOWING LANGUAGE ABOVE A SIGNATURE LINE FOR THE PATIENT:

13 "I, _____, HEREBY AUTHORIZE
14 DR. _____ ("THE PHYSICIAN") AND ANY ASSISTANT
15 DESIGNATED BY THE PHYSICIAN TO PERFORM UPON ME THE FOLLOW-
16 ING OPERATION(S) OR PROCEDURE(S):

17 _____
18 (NAME OF OPERATION(S) OR PROCEDURE(S) AS DESCRIBED
19 _____
20 IN THE ATTACHED SUMMARY.)

21 I UNDERSTAND THAT I AM APPROXIMATELY _____ WEEKS
22 PREGNANT. I HAVE RECEIVED THE ATTACHED SUMMARY, AND I
23 CONSENT TO AN ABORTION PROCEDURE TO TERMINATE MY
24 PREGNANCY. I UNDERSTAND THAT I HAVE THE RIGHT TO WITH-
25 DRAW MY CONSENT TO THE ABORTION PROCEDURE AT ANY TIME
26 PRIOR TO PERFORMANCE OF THAT PROCEDURE. I ACKNOWLEDGE I
27 HAVE RECEIVED THE FOLLOWING:

1 (A) A COPY OF A MEDICALLY ACCURATE DEPICTION OF A FETUS AT
2 THE PROBABLE GESTATIONAL AGE OF THE FETUS I AM CARRYING.

3 (B) A DESCRIPTION OF THE MEDICAL PROCEDURE THAT WILL BE USED
4 TO PERFORM THE ABORTION.

5 (C) INFORMATION PERTAINING TO POTENTIAL RISKS AND COMPLICA-
6 TIONS THAT HAVE BEEN ASSOCIATED WITH ABORTION AND WITH LIVE
7 BIRTH.

8 (D) INFORMATION ABOUT WHAT TO DO AND WHOM TO CONTACT IN THE
9 EVENT THAT COMPLICATIONS ARISE FROM THE ABORTION.

10 (E) INFORMATION PERTAINING TO AVAILABLE PREGNANCY RELATED
11 SERVICES.

12 I HAVE BEEN GIVEN AN OPPORTUNITY TO ASK QUESTIONS ABOUT THE
13 OPERATION(S) OR PROCEDURE(S), AND FREELY AND VOLUNTARILY SIGN
14 THIS FORM."

15 (D) MAKE AVAILABLE TO PHYSICIANS THROUGH THE MICHIGAN BOARD
16 OF MEDICINE AND THE MICHIGAN BOARD OF OSTEOPATHIC MEDICINE AND
17 SURGERY THE COPIES OF MEDICALLY ACCURATE DEPICTIONS DESCRIBED IN
18 SUBDIVISION (A), THE STANDARDIZED WRITTEN SUMMARIES DESCRIBED IN
19 SUBDIVISION (B), AND THE ACKNOWLEDGMENT AND CONSENT FORM
20 DESCRIBED IN SUBDIVISION (C).

21 (E) APPROVE AN ALTERNATIVE WRITTEN SUMMARY OR ACKNOWLEDGMENT
22 AND CONSENT FORM SUBMITTED BY A PHYSICIAN FOR DEPARTMENT OF
23 PUBLIC HEALTH APPROVAL PURSUANT TO THIS SUBSECTION, IF THE PRO-
24 POSED SUMMARY OR ACKNOWLEDGMENT AND CONSENT FORM CONTAINS INFOR-
25 MATION SUBSTANTIALLY SIMILAR TO THE INFORMATION DESCRIBED IN SUB-
26 DIVISIONS (B) AND (C).

1 (9) A PHYSICIAN'S DUTY TO INFORM THE PATIENT UNDER THIS
2 SECTION DOES NOT REQUIRE DISCLOSURE OF INFORMATION BEYOND WHAT A
3 REASONABLY WELL-QUALIFIED PHYSICIAN LICENSED UNDER THIS ARTICLE
4 WOULD POSSESS.

5 (10) A WRITTEN CONSENT FORM MEETING THE REQUIREMENTS SET
6 FORTH IN THIS SECTION AND SIGNED BY THE PREGNANT WOMAN IS PRE-
7 SUMED VALID. THE PRESUMPTION CREATED BY THIS SUBSECTION MAY BE
8 REBUTTED BY EVIDENCE THAT ESTABLISHES, BY A PREPONDERANCE OF THE
9 EVIDENCE, THAT CONSENT WAS OBTAINED THROUGH FRAUD, NEGLIGENCE,
10 DECEPTION, MISREPRESENTATION, COERCION, OR DURESS.

11 (11) THIS SECTION DOES NOT CREATE A RIGHT TO ABORTION.

12 (12) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, A
13 PERSON SHALL NOT PERFORM AN ABORTION THAT IS PROHIBITED BY LAW.

14 (13) IF ANY PORTION OF THIS ACT OR THE APPLICATION OF THIS
15 ACT TO ANY PERSON OR CIRCUMSTANCES IS FOUND INVALID BY A COURT,
16 THAT INVALIDITY SHALL NOT AFFECT THE REMAINING PORTIONS OR APPLI-
17 CATIONS OF THE ACT WHICH CAN BE GIVEN EFFECT WITHOUT THE INVALID
18 PORTION OR APPLICATION, PROVIDED THOSE REMAINING PORTIONS ARE NOT
19 DETERMINED BY THE COURT TO BE INOPERABLE.

20 SEC. 17515. A PHYSICIAN, BEFORE PERFORMING AN ABORTION ON A
21 PATIENT, SHALL COMPLY WITH SECTION 17015.