

**SUBSTITUTE FOR
HOUSE BILL NO. 5711**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 2803, 2804, 2834, 2848, 13807, 16221, 16226,
16299, 17015, 17515, 20115, and 22224 (MCL 333.2803, 333.2804,
333.2834, 333.2848, 333.13807, 333.16221, 333.16226, 333.16299,
333.17015, 333.17515, 333.20115, and 333.22224), sections 2803,
2834, and 2848 as amended by 2002 PA 562, section 2804 as amended
by 1990 PA 149, section 13807 as added by 1990 PA 21, section
16221 as amended by 2011 PA 222, section 16226 as amended by 2011
PA 224, section 16299 as amended by 2002 PA 685, section 17015 as
amended by 2006 PA 77, section 17515 as added by 1993 PA 133, and
section 20115 as amended and section 22224 as added by 1999 PA
206, and by adding sections 2836, 2854, 17015a, 17017, 17019,
17517, and 17519.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

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

24 Sec. 2804. (1) "Institution" means a public or private
25 establishment ~~which~~ **THAT** provides inpatient medical, surgical, or
26 diagnostic care or treatment or nursing, custodial, or

1 domiciliary care to 2 or more unrelated individuals, including an
2 establishment to which individuals are committed by law.

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

7 (3) "Live birth" means a term defined by departmental rule
8 ~~which~~**THAT** shall conform as closely as possible to the definition
9 of live birth recommended by the federal agency responsible for
10 vital statistics.

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

17 (5) **"MEDICAL WASTE" MEANS THAT TERM AS DEFINED IN SECTION**
18 **13805.**

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

22 (7) **"PRODUCTS OF CONCEPTION" MEANS THAT TERM AS DEFINED IN**
23 **SECTION 13807.**

24 (8) ~~(5)~~"Registration" means the acceptance by the state
25 registrar and the incorporation of certificates provided for in
26 this part into the official vital records.

27 Sec. 2834. (1) A fetal death occurring in this state ~~as~~

1 ~~defined by section 2803,~~ shall be reported to the state registrar
2 within 5 days after delivery. The state registrar shall prescribe
3 the form and manner for reporting fetal deaths.

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

15 (3) If a dead fetus **THAT HAS COMPLETED AT LEAST 20 WEEKS OF**
16 **GESTATION** is delivered in an institution, the individual in
17 charge of the institution or his or her authorized representative
18 shall prepare and file the **FETAL DEATH** report **AND MAKE**
19 **ARRANGEMENTS FOR THE FINAL DISPOSITION OF THE DEAD FETUS PURSUANT**
20 **TO SECTION 2848, UNLESS THE PARENTS, OR PARENT IF THE MOTHER IS**
21 **UNMARRIED, EXPRESSLY REQUESTS THE RESPONSIBILITY OF FINAL**
22 **DISPOSITION AND THAT DISPOSITION DOES NOT CONFLICT WITH ANY STATE**
23 **OR FEDERAL LAW, RULE, OR REGULATION.**

24 (4) If a dead fetus **THAT HAS COMPLETED AT LEAST 20 WEEKS OF**
25 **GESTATION** is delivered outside an institution, the physician in
26 attendance shall prepare and file the **FETAL DEATH** report. **IF A**
27 **PHYSICIAN BECOMES AWARE OF A FETAL DEATH OR MISCARRIAGE THAT HAS**

1 OCCURRED OUTSIDE AN INSTITUTION, THE PHYSICIAN SHALL INFORM THE
2 PARENTS, OR PARENT IF THE MOTHER IS UNMARRIED, THAT THE PARENTS
3 OR PARENT HAS A RIGHT UNDER STATE LAW TO DETERMINE THE FINAL
4 DISPOSITION OF THE DEAD FETUS.

5 (5) If a fetal death occurs without medical attendance at or
6 after the delivery or if inquiry is required by the medical
7 examiner, the attendant, mother, or other person having knowledge
8 of the fetal death shall notify the medical examiner who shall
9 investigate the cause and prepare and file the **FETAL DEATH**
10 report. **EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED, THIS SECTION**
11 **AND SECTION 2848 DO NOT APPLY TO A MISCARRIAGE THAT OCCURS**
12 **OUTSIDE AN INSTITUTION.**

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

25 (7) The **FETAL DEATH** reports required under this section and
26 filed on or after June 1, 2003 are permanent vital records
27 documents and shall be incorporated into the system of vital

1 statistics. ~~as described in section 2805.~~ Access to a fetal death
2 report or information contained on a fetal death report ~~shall be~~
3 **IS** the same as ~~to a live birth record in accordance with~~ **UNDER**
4 sections 2882, 2883, and 2888.

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

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

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

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

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

16 (e) The name of the health facility in which the fetus was
17 delivered or the name of the health professional in attendance if
18 the delivery was outside a health facility.

19 (9) **IF A MISCARRIAGE OCCURS OUTSIDE AN INSTITUTION AND A**
20 **HEALTH PROFESSIONAL IS PRESENT OR IS IMMEDIATELY AWARE OF THE**
21 **MISCARRIAGE, THE HEALTH PROFESSIONAL SHALL INFORM THE PARENTS, OR**
22 **PARENT IF THE MOTHER IS UNMARRIED, THAT THE PARENTS OR PARENT HAS**
23 **A RIGHT UNDER STATE LAW TO DETERMINE THE FINAL DISPOSITION OF THE**
24 **FETAL REMAINS.**

25 **SEC. 2836. (1) ALL FETAL REMAINS RESULTING FROM ABORTIONS**
26 **SHALL BE DISPOSED OF BY MEANS LAWFUL FOR OTHER DEAD BODIES,**
27 **INCLUDING BURIAL, CREMATION, OR INTERMENT. UNLESS THE MOTHER HAS**

1 PROVIDED WRITTEN CONSENT FOR RESEARCH ON THE FETAL REMAINS UNDER
2 SECTION 2688, A PHYSICIAN WHO PERFORMS AN ABORTION SHALL ARRANGE
3 FOR THE FINAL DISPOSITION OF THE FETAL REMAINS RESULTING FROM THE
4 ABORTION. IF THE FETAL REMAINS RESULTING FROM AN ABORTION ARE
5 DISPOSED OF BY CREMATION, THE FETAL REMAINS SHALL BE INCINERATED
6 SEPARATELY FROM ANY OTHER MEDICAL WASTE. HOWEVER, THIS SUBSECTION
7 DOES NOT PROHIBIT THE SIMULTANEOUS CREMATION OF FETAL REMAINS
8 WITH PRODUCTS OF CONCEPTION OR OTHER FETAL REMAINS RESULTING FROM
9 ABORTIONS.

10 (2) THIS SECTION DOES NOT REQUIRE A PHYSICIAN TO DISCUSS THE
11 FINAL DISPOSITION OF THE FETAL REMAINS WITH THE MOTHER BEFORE
12 PERFORMING THE ABORTION, NOR DOES IT REQUIRE A PHYSICIAN TO
13 OBTAIN AUTHORIZATION FROM THE MOTHER FOR THE FINAL DISPOSITION OF
14 THE FETAL REMAINS UPON COMPLETION OF THE ABORTION.

15 Sec. 2848. (1) Except as provided in sections 2844 and 2845,
16 a funeral director or person acting as a funeral director, who
17 first assumes custody of a dead body, not later than 72 hours
18 after death or the finding of a dead body and before final
19 disposition of the body, shall obtain authorization for the final
20 disposition. The authorization for final disposition of a dead
21 body shall be issued on a form prescribed by the state registrar
22 and signed by the local registrar or the state registrar.

23 (2) ~~Before~~ UNLESS THE MOTHER HAS PROVIDED WRITTEN CONSENT
24 FOR RESEARCH ON THE DEAD FETUS UNDER SECTION 2688, BEFORE final
25 disposition of a dead fetus, irrespective of the duration of
26 pregnancy, OR BEFORE FINAL DISPOSITION OF FETAL REMAINS RESULTING
27 FROM A MISCARRIAGE, the funeral director or person assuming

1 responsibility for the final disposition of the fetus **OR FETAL**
2 **REMAINS** shall obtain from the parents, or parent ~~in case of an~~ **IF**
3 **THE MOTHER IS** unmarried, ~~mother,~~ an authorization for final
4 disposition on a form prescribed and furnished or approved by the
5 state registrar. The authorization may allow final disposition to
6 be by a funeral director, the individual in charge of the
7 institution where the fetus was delivered **OR MISCARRIED**, or an
8 institution or agency authorized to accept donated bodies, ~~or~~
9 fetuses, **OR FETAL REMAINS** under this ~~code~~ **ACT. THE FUNERAL**
10 **DIRECTOR, INDIVIDUAL IN CHARGE OF THE INSTITUTION, OR OTHER**
11 **PERSON MAKING THE FINAL DISPOSITION SHALL TAKE INTO ACCOUNT THE**
12 **EXPRESSED WISHES OF THE PARENTS, OR PARENT IF THE MOTHER IS**
13 **UNMARRIED, IF THE WISHES DO NOT CONFLICT WITH ANY STATE OR**
14 **FEDERAL LAW, RULE, OR REGULATION.** After final disposition, the
15 funeral director, the individual in charge of the institution, or
16 other person making the final disposition shall retain the permit
17 for not less than 7 years. **THIS SECTION AS AMENDED BY THE**
18 **AMENDATORY ACT THAT ADDED THIS SENTENCE DOES NOT REQUIRE A**
19 **RELIGIOUS SERVICE OR CEREMONY AS PART OF THE FINAL DISPOSITION OF**
20 **FETAL REMAINS.**

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

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

27 (5) A permit for disposition issued under the law of another

1 state that accompanies a dead body or dead fetus brought into
2 this state is authorization for final disposition of the dead
3 body or dead fetus in this state.

4 **SEC. 2854. A PERSON WHO VIOLATES THIS PART BY FAILING TO**
5 **DISPOSE OF FETAL REMAINS RESULTING FROM AN ABORTION AS PRESCRIBED**
6 **IN SECTION 2836 OR BY FAILING TO OBTAIN THE PROPER AUTHORIZATION**
7 **FOR FINAL DISPOSITION OF A DEAD BODY AS PROVIDED UNDER SECTION**
8 **2848 IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AS PROVIDED**
9 **UNDER CHAPTER 88 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA**
10 **236, MCL 600.8801 TO 600.8835, AND MAY BE ORDERED TO PAY A CIVIL**
11 **FINE OF NOT MORE THAN \$1,000.00 PER VIOLATION.**

12 Sec. 13807. (1) "Pathogen" means a microorganism that
13 produces disease.

14 (2) "Pathological waste" means human organs, tissues, body
15 parts other than teeth, products of conception, and fluids
16 removed by trauma or during surgery, ~~or~~ autopsy, or other medical
17 procedure, and not fixed in formaldehyde.

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

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

22 (5) **"PRODUCTS OF CONCEPTION" MEANS ANY TISSUES OR FLUIDS,**
23 **PLACENTA, UMBILICAL CORD, OR OTHER UTERINE CONTENTS RESULTING**
24 **FROM A PREGNANCY. PRODUCTS OF CONCEPTION DO NOT INCLUDE A FETUS**
25 **OR FETAL BODY PARTS.**

26 (6) ~~(5)~~ "Release" means any spilling, leaking, pumping,
27 pouring, emitting, emptying, discharging, injecting, escaping,

1 leaching, dumping, or disposing of medical waste into the
2 environment in violation of this part.

3 (7) ~~(6)~~—"Response activity" means an activity necessary to
4 protect the public health, safety, welfare, and the environment,
5 and includes, but is not limited to, evaluation, cleanup,
6 removal, containment, isolation, treatment, monitoring,
7 maintenance, replacement of water supplies, and temporary
8 relocation of people.

9 (8) ~~(7)~~—"Sharps" means needles, syringes, scalpels, and
10 intravenous tubing with needles attached.

11 (9) ~~(8)~~—"Storage" means the containment of medical waste in
12 a manner that does not constitute disposal of the medical waste.

13 (10) ~~(9)~~—"Transport" means the movement of medical waste
14 from the point of generation to any intermediate point and
15 finally to the point of treatment or disposal. Transport does not
16 include the movement of medical waste from a health facility or
17 agency to another health facility or agency for the purposes of
18 testing and research.

19 Sec. 16221. The department may investigate activities
20 related to the practice of a health profession by a licensee, a
21 registrant, or an applicant for licensure or registration. The
22 department may hold hearings, administer oaths, and order **THE**
23 **TAKING OF** relevant testimony ~~to be taken~~ and shall report its
24 findings to the appropriate disciplinary subcommittee. The
25 disciplinary subcommittee shall proceed under section 16226 if it
26 finds that 1 or more of the following grounds exist:

27 (a) A violation of general duty, consisting of negligence or

1 failure to exercise due care, including negligent delegation to
2 or supervision of employees or other individuals, whether or not
3 injury results, or any conduct, practice, or condition that
4 impairs, or may impair, the ability to safely and skillfully
5 practice the health profession.

6 (b) Personal disqualifications, consisting of 1 or more of
7 the following:

8 (i) Incompetence.

9 (ii) Subject to sections 16165 to 16170a, substance abuse as
10 defined in section 6107.

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

14 (iv) Declaration of mental incompetence by a court of
15 competent jurisdiction.

16 (v) Conviction of a misdemeanor punishable by imprisonment
17 for a maximum term of 2 years; a misdemeanor involving the
18 illegal delivery, possession, or use of a controlled substance;
19 or a felony. A certified copy of the court record is conclusive
20 evidence of the conviction.

21 (vi) Lack of good moral character.

22 (vii) Conviction of a criminal offense under section 520e or
23 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and
24 750.520g. A certified copy of the court record is conclusive
25 evidence of the conviction.

26 (viii) Conviction of a violation of section 492a of the
27 Michigan penal code, 1931 PA 328, MCL 750.492a. A certified copy

1 of the court record is conclusive evidence of the conviction.

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

6 (x) Final adverse administrative action by a licensure,
7 registration, disciplinary, or certification board involving the
8 holder of, or an applicant for, a license or registration
9 regulated by another state or a territory of the United States,
10 by the United States military, by the federal government, or by
11 another country. A certified copy of the record of the board is
12 conclusive evidence of the final action.

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

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

20 (xiii) Conviction of a criminal offense under section 520b,
21 520c, 520d, or 520f of the Michigan penal code, 1931 PA 328, MCL
22 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of
23 the court record is conclusive evidence of the conviction.

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

26 (i) Fraud or deceit in obtaining or renewing a license or
27 registration.

1 (ii) Permitting ~~the~~ A license or registration to be used by
2 an unauthorized person.

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

4 (iv) Obtaining, possessing, or attempting to obtain or
5 possess a controlled substance as defined in section 7104 or a
6 drug as defined in section 7105 without lawful authority; or
7 selling, prescribing, giving away, or administering drugs for
8 other than lawful diagnostic or therapeutic purposes.

9 (d) Unethical business practices, consisting of 1 or more of
10 the following:

11 (i) False or misleading advertising.

12 (ii) Dividing fees for referral of patients or accepting
13 kickbacks on medical or surgical services, appliances, or
14 medications purchased by or in behalf of patients.

15 (iii) Fraud or deceit in obtaining or attempting to obtain
16 third party reimbursement.

17 (e) Unprofessional conduct, consisting of 1 or more of the
18 following:

19 (i) Misrepresentation to a consumer or patient or in
20 obtaining or attempting to obtain third party reimbursement in
21 the course of professional practice.

22 (ii) Betrayal of a professional confidence.

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

25 (iv) Either of the following:

26 (A) A requirement by a licensee other than a physician that
27 an individual purchase or secure a drug, device, treatment,

1 procedure, or service from another person, place, facility, or
2 business in which the licensee has a financial interest.

3 (B) A referral by a physician for a designated health
4 service that violates 42 USC 1395nn or a regulation promulgated
5 under that section. For purposes of this ~~subparagraph,~~

6 **SUBDIVISION**, 42 USC 1395nn and the regulations promulgated under
7 that section as they exist on June 3, 2002 are incorporated by
8 reference. A disciplinary subcommittee shall apply 42 USC 1395nn
9 and the regulations promulgated under that section regardless of
10 the source of payment for the designated health service referred
11 and rendered. If 42 USC 1395nn or a regulation promulgated under
12 that section is revised after June 3, 2002, the department shall
13 officially take notice of the revision. Within 30 days after
14 taking notice of the revision, the department shall decide
15 whether or not the revision pertains to referral by physicians
16 for designated health services and continues to protect the
17 public from inappropriate referrals by physicians. If the
18 department decides that the revision does both of those things,
19 the department may promulgate rules to incorporate the revision
20 by reference. If the department does promulgate rules to
21 incorporate the revision by reference, the department shall not
22 make any changes to the revision. As used in this ~~subparagraph,~~
23 **SUB-SUBPARAGRAPH**, "designated health service" means that term as
24 defined in 42 USC 1395nn and the regulations promulgated under
25 that section and "physician" means that term as defined in
26 sections 17001 and 17501.

27 (v) For a physician who makes referrals pursuant to 42 USC

1 1395nn or a regulation promulgated under that section, refusing
2 to accept a reasonable proportion of patients eligible for
3 medicaid and refusing to accept payment from medicaid or medicare
4 as payment in full for a treatment, procedure, or service for
5 which the physician refers the individual and in which the
6 physician has a financial interest. A physician who owns all or
7 part of a facility in which he or she provides surgical services
8 is not subject to this subparagraph if a referred surgical
9 procedure he or she performs in the facility is not reimbursed at
10 a minimum of the appropriate medicaid or medicare outpatient fee
11 schedule, including the combined technical and professional
12 components.

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

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

23 (h) A violation, or aiding or abetting in a violation, of
24 this article or of a rule promulgated under this article.

25 (i) Failure to comply with a subpoena issued pursuant to
26 this part, failure to respond to a complaint issued under this
27 article or article 7, failure to appear at a compliance

conference or an administrative hearing, or failure to report under section 16222 or 16223.

(j) Failure to pay an installment of an assessment levied pursuant to ~~UNDER~~ the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, within 60 days after notice by the appropriate board.

(k) A violation of section 17013 or 17513.

(l) Failure to meet 1 or more of the requirements for licensure or registration under section 16174.

(m) A violation of section 17015, ~~or 17015A~~, 17017, 17515, OR 17517.

(n) A violation of section 17016 or 17516.

(o) Failure to comply with section 9206(3).

(p) A violation of section 5654 or 5655.

(q) A violation of section 16274.

(r) A violation of section 17020 or 17520.

(s) A violation of the medical records access act, 2004 PA 47, MCL 333.26261 to 333.26271.

(t) A violation of section 17764(2).

(U) A VIOLATION OF SECTION 17019 OR 17519.

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

Violations of Section 16221

Sanctions

Subdivision (a), (b) (ii),	Probation, limitation, denial,
(b) (iv), (b) (vi), or	suspension, revocation,

1	(b) (vii)	restitution, community service,
2		or fine.
3		
4	Subdivision (b) (viii)	Revocation or denial.
5		
6	Subdivision (b) (i) ,	Limitation, suspension,
7	(b) (iii) , (b) (v) ,	revocation, denial,
8	(b) (ix) , (b) (x) ,	probation, restitution,
9	(b) (xi) , or (b) (xii)	community service, or fine.
10		
11	Subdivision (b) (xiii)	Probation, limitation, denial,
12		suspension, revocation,
13		restitution, community service,
14		fine, or, subject to subsection
15		(5), permanent revocation.
16		
17		
18	Subdivision (c) (i)	Denial, revocation, suspension,
19		probation, limitation, community
20		service, or fine.
21		
22	Subdivision (c) (ii)	Denial, suspension, revocation,
23		restitution, community service,
24		or fine.
25		
26	Subdivision (c) (iii)	Probation, denial, suspension,
27		revocation, restitution,
28		community service, or fine.
29		
30	Subdivision (c) (iv)	Fine, probation, denial,
31	or (d) (iii)	suspension, revocation, community

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

1		
2	Subdivision (l)	Reprimand, denial, or
3		limitation.
4		
5	Subdivision (m) or (o)	Denial, revocation, restitution,
6		probation, suspension,
7		limitation, reprimand, or fine.
8		
9	Subdivision (n)	Revocation or denial.
10		
11	Subdivision (q)	Revocation.
12		
13	Subdivision (t)	Revocation, fine, and
14		restitution.
15	SUBDIVISION (U)	LIMITATION DESCRIBED IN SECTION
16		17019 OR 17519, AS APPLICABLE

(2) Determination of sanctions for violations under this section shall be made by a disciplinary subcommittee. If, during judicial review, the court of appeals determines that a final decision or order of a disciplinary subcommittee prejudices substantial rights of the petitioner for 1 or more of the grounds listed in section 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.306, and holds that the final decision or order is unlawful and is to be set aside, the court shall state on the record the reasons for the holding and may remand the case to the disciplinary subcommittee for further consideration.

(3) A disciplinary subcommittee may impose a fine of up to,

1 but not exceeding, \$250,000.00 for a violation of section
2 16221(a) or (b).

3 (4) A disciplinary subcommittee may require a licensee or
4 registrant or an applicant for licensure or registration who has
5 violated this article or article 7 or a rule promulgated under
6 this article or article 7 to satisfactorily complete an
7 educational program, a training program, or a treatment program,
8 a mental, physical, or professional competence examination, or a
9 combination of those programs and examinations.

10 (5) A disciplinary subcommittee shall not impose the
11 sanction of permanent revocation for a violation of section
12 16221(b) (xiii) unless the violation occurred while the licensee or
13 registrant was acting within the health profession for which he
14 or she was licensed or registered.

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

20 (a) For the first offense, by imprisonment for not more than
21 90 days, or a fine of not more than \$100.00, or both.

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

25 (2) Subsection (1) does not apply to a violation of section
26 17015, ~~or 17017~~, 17019, 17515, 17517, OR 17519.

27 Sec. 17015. (1) Subject to subsection (10), a physician

1 shall not perform an abortion otherwise permitted by law without
 2 the patient's informed written consent, given freely and without
 3 coercion **TO ABORT.**

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

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

13 (B) **"COERCION TO ABORT" MEANS AN ACT COMMITTED WITH THE**
 14 **INTENT TO COERCE AN INDIVIDUAL TO HAVE AN ABORTION, WHICH ACT IS**
 15 **PROHIBITED BY SECTION 213A OF THE MICHIGAN PENAL CODE, 1931 PA**
 16 **328, MCL 750.213A.**

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

19 (D) ~~(b)~~-"Fetus" means an individual organism of the species
 20 homo sapiens in utero.

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

25 (F) ~~(d)~~-"Medical emergency" means that condition which, on
 26 the basis of the physician's good faith clinical judgment, so
 27 complicates the medical condition of a pregnant woman as to

1 necessitate the immediate abortion of her pregnancy to avert her
2 death or for which a delay will create serious risk of
3 substantial and irreversible impairment of a major bodily
4 function.

5 **(G)** ~~(e)~~—"Medical service" means the provision of a
6 treatment, procedure, medication, examination, diagnostic test,
7 assessment, or counseling, including, but not limited to, a
8 pregnancy test, ultrasound, pelvic examination, or an abortion.

9 **(H)** ~~(f)~~—"Qualified person assisting the physician" means
10 another physician or a physician's assistant licensed under this
11 part or part 175, a fully licensed or limited licensed
12 psychologist licensed under part 182, a professional counselor
13 licensed under part 181, a registered professional nurse or a
14 licensed practical nurse licensed under part 172, or a social
15 worker licensed under part 185.

16 **(I)** ~~(g)~~—"Probable gestational age of the fetus" means the
17 gestational age of the fetus at the time an abortion is planned
18 to be performed.

19 **(J)** ~~(h)~~—"Provide the patient with a physical copy" means
20 confirming that the patient accessed the internet website
21 described in subsection (5) and received a printed valid
22 confirmation form from the website and including that form in the
23 patient's medical record or giving a patient a copy of a required
24 document by 1 or more of the following means:

25 (i) In person.

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

27 (iii) By parcel delivery service that requires the recipient

1 to provide a signature in order to receive delivery of a parcel.

2 (iv) By facsimile transmission.

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

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

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

13 (i) The probable gestational age of the fetus she is
14 carrying.

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

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

19 (c) Provide the patient with a physical copy of the written
20 **STANDARDIZED** summary described in subsection (11)(b) that
21 corresponds to the procedure the patient will undergo and is
22 provided by the department of community health. If the procedure
23 has not been recognized by the department, but is otherwise
24 allowed under Michigan law, and the department has not provided a
25 written **STANDARDIZED** summary for that procedure, the physician
26 shall develop and provide a written summary that describes the
27 procedure, any known risks or complications of the procedure, and

1 risks associated with live birth and meets the requirements of
2 subsection (11)(b)(iii) through (vii).

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

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

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

14 (4) The requirements of subsection (3) may be fulfilled by
15 the physician or a qualified person assisting the physician at a
16 location other than the health facility where the abortion is to
17 be performed. The requirement of subsection (3)(a) that a
18 patient's pregnancy be confirmed may be fulfilled by a local
19 health department under subsection (18). The requirements of
20 subsection (3) cannot be fulfilled by the patient accessing an
21 internet website other than the internet website ~~described in~~
22 ~~subsection (5) that is maintained through~~ **AND OPERATED BY** the
23 department **UNDER SUBSECTION (11)(G).**

24 (5) The requirements of subsection (3)(c) through ~~(e)~~ **(F)**
25 may be fulfilled by a patient accessing the internet website **THAT**
26 **IS** maintained and operated ~~through~~ **BY** the department **UNDER**
27 **SUBSECTION (11)(G)** and receiving a printed, valid confirmation

1 form from the website that the patient has reviewed the
2 information required in subsection (3)(c) through ~~(e)~~ **(F)** at
3 least 24 hours before an abortion being performed on the patient.
4 The website shall not require any information be supplied by the
5 patient. The department shall not track, compile, or otherwise
6 keep a record of information that would identify a patient who
7 accesses this website. The patient shall supply the valid
8 confirmation form to the physician or qualified person assisting
9 the physician to be included in the patient's medical record to
10 comply with this subsection.

11 (6) Subject to subsection (10), before obtaining the
12 patient's signature on the acknowledgment and consent form, a
13 physician personally and in the presence of the patient shall do
14 all of the following:

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

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

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

27 (ii) The specific risk of complications, if any, to the

1 patient if she chooses to continue the pregnancy based on the
2 patient's particular medical condition and history as determined
3 by a physician.

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

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

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

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

25 (c) Retain a copy of the signed acknowledgment and consent
26 form described in subsection (11)(c) and, if applicable, a copy
27 of the pregnancy certification form completed under subsection

1 (18)(b), in the patient's medical record.

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

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

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

18 (10) If the attending physician, utilizing his or her
19 experience, judgment, and professional competence, determines
20 that a medical emergency exists and necessitates performance of
21 an abortion before the requirements of subsections (1), (3), and
22 (6) can be met, the physician is exempt from the requirements of
23 subsections (1), (3), and (6), may perform the abortion, and
24 shall maintain a written record identifying with specificity the
25 medical factors upon which the determination of the medical
26 emergency is based.

27 (11) The department of community health shall do each of the

1 following:

2 (a) Produce medically accurate depictions, illustrations, or
3 photographs of the development of a human fetus that indicate by
4 scale the actual size of the fetus at 2-week intervals from the
5 fourth week through the twenty-eighth week of gestation. Each
6 depiction, illustration, or photograph shall be accompanied by a
7 printed description, in nontechnical English, Arabic, and
8 Spanish, of the probable anatomical and physiological
9 characteristics of the fetus at that particular state of
10 gestational development.

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

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

18 (ii) Identify the physical complications that have been
19 associated with each procedure described in subparagraph (i) and
20 with live birth, as determined by the department. In identifying
21 these complications, the department shall consider the annual
22 statistical report required under section ~~2835(6)~~ **2835**, and shall
23 consider studies concerning complications that have been
24 published in a peer review medical journal, with particular
25 attention paid to the design of the study, and shall consult with
26 the federal centers for disease control **AND PREVENTION**, the
27 American college ~~CONGRESS~~ of obstetricians and gynecologists, the

Michigan state medical society, or any other source that the department determines appropriate for the purpose.

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

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

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

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

(vii) Identify services available through public agencies to assist the patient and provide counseling should she experience subsequent adverse psychological effects from the abortion.

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

"I, _____, **VOLUNTARILY AND WILLFULLY** hereby authorize Dr. _____ ("the

physician") and any assistant designated by the physician to perform upon me the following operation(s) or procedure(s):

 (Name of operation(s) or procedure(s))

A. I understand that I am approximately _____ weeks pregnant. I consent to an abortion procedure to terminate my pregnancy. I understand that I have the right to withdraw my consent to the abortion procedure at any time prior to performance of that procedure.

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

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

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

2. ~~(b)~~—A written description of the medical procedure that will be used to perform the abortion.

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

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

E. I acknowledge that the physician who will perform the

1 abortion has orally described all of the following to me:

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

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

7 F. I acknowledge that I have received all of the following
8 information:

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

11 2. ~~(e)~~—Information pertaining to available pregnancy related
12 services.

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

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

23 (d) Make available to physicians through the Michigan board
24 of medicine and the Michigan board of osteopathic medicine and
25 surgery, and **TO** any person upon request, the copies of medically
26 accurate depictions, illustrations, or photographs described in
27 subdivision (a), the **WRITTEN** standardized ~~written~~ summaries

1 described in subdivision (b), the acknowledgment and consent form
2 described in subdivision (c), the prenatal care and parenting
3 information pamphlet described in section 9161, ~~and the pregnancy~~
4 certification form described in subdivision (f), **AND THE**
5 **MATERIALS REGARDING COERCION TO ABORT DESCRIBED IN SUBDIVISION**
6 **(I)**.

7 (e) The department shall not develop written **STANDARDIZED**
8 summaries for abortion procedures under subdivision (b) that
9 utilize medication that has not been approved by the United
10 States food and drug administration for use in performing an
11 abortion.

12 (f) Develop, draft, and print a certification form to be
13 signed by a local health department representative at the time
14 and place a patient has a pregnancy confirmed, as requested by
15 the patient, verifying the date and time the pregnancy is
16 confirmed.

17 (g) Develop, **OPERATE**, and maintain an internet website that
18 allows a patient considering an abortion to review the
19 information required in subsection (3)(c) through ~~(e)~~. **(F)**. After
20 the patient reviews the required information, the department
21 shall assure that a confirmation form can be printed by the
22 patient from the internet website that will verify the time and
23 date the information was reviewed. A confirmation form printed
24 under this subdivision becomes invalid 14 days after the date and
25 time printed on the confirmation form.

26 (h) Include on the informed consent **INTERNET** website
27 developed under subdivision (g) a list of health care providers,

1 facilities, and clinics that offer to perform ultrasounds free of
2 charge. The list shall be organized geographically and shall
3 include the name, address, and telephone number of each health
4 care provider, facility, and clinic.

5 (I) AFTER CONSIDERING THE STANDARDS AND RECOMMENDATIONS OF
6 THE JOINT COMMISSION ON ACCREDITATION OF HEALTHCARE
7 ORGANIZATIONS, THE MICHIGAN DOMESTIC VIOLENCE PREVENTION AND
8 TREATMENT BOARD, THE MICHIGAN COALITION AGAINST DOMESTIC AND
9 SEXUAL VIOLENCE OR SUCCESSOR ORGANIZATION, AND THE AMERICAN
10 MEDICAL ASSOCIATION, DO ALL OF THE FOLLOWING:

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

17 (A) A STATEMENT THAT IT IS ILLEGAL UNDER MICHIGAN LAW TO
18 COERCE A WOMAN TO HAVE AN ABORTION.

19 (B) A STATEMENT THAT HELP IS AVAILABLE IF A WOMAN IS BEING
20 THREATENED OR INTIMIDATED; IS BEING PHYSICALLY, EMOTIONALLY, OR
21 SEXUALLY HARMED; OR FEELS AFRAID FOR ANY REASON.

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

24 (ii) DEVELOP, DRAFT, AND PRINT OR MAKE AVAILABLE IN PRINTABLE
25 FORMAT, IN NONTECHNICAL ENGLISH, ARABIC, AND SPANISH, A
26 PRESCREENING SUMMARY ON PREVENTION OF COERCION TO ABORT THAT, AT
27 A MINIMUM, CONTAINS THE INFORMATION REQUIRED UNDER SUBPARAGRAPH

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

4 (iii) DEVELOP, DRAFT, AND PRINT SCREENING AND TRAINING TOOLS
5 AND ACCOMPANYING TRAINING MATERIALS TO BE UTILIZED BY A PHYSICIAN
6 OR QUALIFIED PERSON ASSISTING THE PHYSICIAN WHILE PERFORMING THE
7 COERCION TO ABORT SCREENING REQUIRED UNDER SECTION 17015A. THE
8 SCREENING TOOLS SHALL INSTRUCT THE PHYSICIAN OR QUALIFIED PERSON
9 ASSISTING THE PHYSICIAN TO DO, AT A MINIMUM, ALL OF THE
10 FOLLOWING:

11 (A) ORALLY INFORM THE PATIENT THAT COERCION TO ABORT IS
12 ILLEGAL AND IS GROUNDS FOR A CIVIL ACTION, BUT CLARIFYING THAT
13 DISCUSSIONS ABOUT PREGNANCY OPTIONS, INCLUDING PERSONAL OR
14 INTENSELY EMOTIONAL EXPRESSIONS ABOUT THOSE OPTIONS, ARE NOT
15 NECESSARILY COERCION TO ABORT AND ILLEGAL.

16 (B) ORALLY ASK THE PATIENT IF HER HUSBAND, PARENTS,
17 SIBLINGS, RELATIVES, OR EMPLOYER, THE FATHER OR PUTATIVE FATHER
18 OF THE FETUS, THE PARENTS OF THE FATHER OR PUTATIVE FATHER OF THE
19 FETUS, OR ANY OTHER INDIVIDUAL HAS ENGAGED IN COERCION TO ABORT
20 AND COERCED HER INTO SEEKING AN ABORTION.

21 (C) ORALLY ASK THE PATIENT IF AN INDIVIDUAL IS TAKING
22 HARMFUL ACTIONS AGAINST HER, INCLUDING, BUT NOT LIMITED TO,
23 INTIMIDATING HER, THREATENING HER, PHYSICALLY HURTING HER, OR
24 FORCING HER TO ENGAGE IN SEXUAL ACTIVITIES AGAINST HER WISHES.

25 (D) DOCUMENT THE FINDINGS FROM THE COERCION TO ABORT
26 SCREENING IN THE PATIENT'S MEDICAL RECORD.

27 (iv) DEVELOP, DRAFT, AND PRINT PROTOCOLS AND ACCOMPANYING

1 TRAINING MATERIALS TO BE UTILIZED BY A PHYSICIAN OR A QUALIFIED
2 PERSON ASSISTING THE PHYSICIAN IF A PATIENT DISCLOSES COERCION TO
3 ABORT OR THAT DOMESTIC VIOLENCE IS OCCURRING, OR BOTH, DURING THE
4 COERCION TO ABORT SCREENING. THE PROTOCOLS SHALL INSTRUCT THE
5 PHYSICIAN OR QUALIFIED PERSON ASSISTING THE PHYSICIAN TO DO, AT A
6 MINIMUM, ALL OF THE FOLLOWING:

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

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

9 (C) EXPLORE SAFETY OPTIONS WITH THE PATIENT.

10 (D) PROVIDE REFERRAL INFORMATION TO THE PATIENT REGARDING
11 LAW ENFORCEMENT AND DOMESTIC VIOLENCE AND SEXUAL ASSAULT SUPPORT
12 ORGANIZATIONS.

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

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

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

24 (14) A completed certification form described in subsection
25 (11)(f) that is signed by a local health department
26 representative is presumed valid. The presumption created by this
27 subsection may be rebutted by evidence that establishes, by a

1 preponderance of the evidence, that the physician who relied upon
2 the certification had actual knowledge that the certificate
3 contained a false or misleading statement or signature.

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

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

7 (17) If any portion of this act or the application of this
8 act to any person or circumstances is found invalid by a court,
9 that invalidity does not affect the remaining portions or
10 applications of the act that can be given effect without the
11 invalid portion or application, if those remaining portions are
12 not determined by the court to be inoperable.

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

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

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

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

27 (20) A local health department with a file containing the

1 identity and address of a patient described in subsection (19)
2 who has been assisted by the local health department under this
3 section shall do both of the following:

4 (a) Only release the identity and address of the patient to
5 a physician or qualified person assisting the physician in order
6 to verify the receipt of the information required under this
7 section.

8 (b) Destroy the information containing the identity and
9 address of the patient within 30 days after assisting the patient
10 under this section.

11 **SEC. 17015A. (1) AT THE TIME A PATIENT FIRST PRESENTS AT A**
12 **PRIVATE OFFICE, FREESTANDING SURGICAL OUTPATIENT FACILITY, OR**
13 **OTHER FACILITY OR CLINIC IN WHICH ABORTIONS ARE PERFORMED FOR THE**
14 **PURPOSE OF OBTAINING AN ABORTION, WHETHER BEFORE OR AFTER THE**
15 **EXPIRATION OF THE 24-HOUR PERIOD DESCRIBED IN SECTION 17015(3),**
16 **THE PHYSICIAN OR QUALIFIED PERSON ASSISTING THE PHYSICIAN SHALL**
17 **ORALLY SCREEN THE PATIENT FOR COERCION TO ABORT USING THE**
18 **SCREENING TOOLS DEVELOPED BY THE DEPARTMENT UNDER SECTION**
19 **17015(11).**

20 (2) IF A PATIENT DISCLOSES THAT SHE IS THE VICTIM OF
21 DOMESTIC VIOLENCE THAT DOES NOT INCLUDE COERCION TO ABORT, THE
22 PHYSICIAN OR QUALIFIED PERSON ASSISTING THE PHYSICIAN SHALL
23 FOLLOW THE PROTOCOLS DEVELOPED BY THE DEPARTMENT UNDER SECTION
24 17015(11).

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

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

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

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

19 SEC. 17017. (1) A PHYSICIAN SHALL NOT DIAGNOSE AND PRESCRIBE
20 A MEDICAL ABORTION FOR A PATIENT WHO IS OR IS PRESUMED TO BE
21 PREGNANT WITHOUT FIRST PERSONALLY PERFORMING A PHYSICAL
22 EXAMINATION OF THE PATIENT. A PHYSICIAN SHALL NOT UTILIZE OTHER
23 MEANS INCLUDING, BUT NOT LIMITED TO, AN INTERNET WEB CAMERA, TO
24 DIAGNOSE AND PRESCRIBE A MEDICAL ABORTION.

25 (2) A PHYSICIAN SHALL OBTAIN THE INFORMED CONSENT OF A
26 PATIENT IN THE MANNER PRESCRIBED UNDER SECTION 17015 TO PERFORM A
27 MEDICAL ABORTION. THE PHYSICIAN SHALL BE PHYSICALLY PRESENT AT

1 THE LOCATION OF THE MEDICAL ABORTION AND AT THE TIME ANY
2 PRESCRIPTION DRUG IS DISPENSED OR ADMINISTERED DURING A MEDICAL
3 ABORTION. THE PRESCRIBING PHYSICIAN SHALL PROVIDE DIRECT
4 SUPERVISION OF THE DISPENSING OR ADMINISTERING OF A PRESCRIPTION
5 DRUG DURING A MEDICAL ABORTION. AN INDIVIDUAL UNDER THE DIRECT
6 SUPERVISION OF THE PRESCRIBING PHYSICIAN WHO IS QUALIFIED BY
7 EDUCATION AND TRAINING AS PROVIDED IN THIS ACT MAY DISPENSE OR
8 ADMINISTER THE PRESCRIPTION DRUG DURING A MEDICAL ABORTION.

9 (3) A PHYSICIAN SHALL NOT GIVE, SELL, DISPENSE, ADMINISTER,
10 OTHERWISE PROVIDE, OR PRESCRIBE A PRESCRIPTION DRUG TO AN
11 INDIVIDUAL FOR THE PURPOSE OF INDUCING AN ABORTION IN THE
12 INDIVIDUAL UNLESS THE PHYSICIAN SATISFIES ALL THE CRITERIA
13 ESTABLISHED BY FEDERAL LAW OR GUIDELINE THAT A PHYSICIAN MUST
14 SATISFY IN ORDER TO GIVE, SELL, DISPENSE, ADMINISTER, OTHERWISE
15 PROVIDE, OR PRESCRIBE A PRESCRIPTION DRUG FOR INDUCING AN
16 ABORTION.

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

20 (5) AS USED IN THIS SECTION:

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

22 (B) "FEDERAL LAW OR GUIDELINE" MEANS ANY LAW, RULE, OR
23 REGULATION OF THE UNITED STATES OR ANY DRUG APPROVAL LETTER,
24 INCLUDING THE USE OF MEDICATION GUIDES AND PATIENT AGREEMENTS AS
25 DESCRIBED IN A DRUG APPROVAL LETTER, OF THE UNITED STATES FOOD
26 AND DRUG ADMINISTRATION, WHICH LAW, RULE, REGULATION, OR LETTER
27 GOVERNS OR REGULATES THE USE OF PRESCRIPTION DRUGS FOR THE

1 PURPOSE OF INDUCING ABORTIONS.

2 (C) "MEDICAL ABORTION" MEANS AN ABORTION PROCEDURE THAT
3 UTILIZES A PRESCRIPTION DRUG OR DRUGS INCLUDING, BUT NOT LIMITED
4 TO, MIFEPRISTONE, MISOPROSTOL, OR ULIPRISTAL ACETATE.

5 (D) "PRESCRIPTION DRUG" MEANS THAT TERM AS DEFINED IN
6 SECTION 17708.

7 SEC. 17019. (1) A PHYSICIAN WHO MEETS ALL OF THE FOLLOWING
8 SHALL MAINTAIN PROFESSIONAL LIABILITY COVERAGE OF NOT LESS THAN
9 \$1,000,000.00, OR PROVIDE EQUIVALENT SECURITY AS DETERMINED BY
10 THE DEPARTMENT, FOR THE PURPOSE OF COMPENSATING A WOMAN SUFFERING
11 FROM ABORTION COMPLICATIONS CAUSED BY THE GROSS NEGLIGENCE OR
12 MALPRACTICE OF THE PHYSICIAN:

13 (A) HE OR SHE PERFORMS 6 OR MORE ABORTIONS PER MONTH.

14 (B) MEETS ANY OF THE FOLLOWING:

15 (i) HE OR SHE WAS FOUND LIABLE FOR DAMAGES IN 2 OR MORE CIVIL
16 LAWSUITS IN THE PRECEDING 7 YEARS RELATED TO HARM CAUSED BY
17 ABORTIONS PERFORMED BY HIM OR HER.

18 (ii) THE DISCIPLINARY SUBCOMMITTEE HAS IMPOSED 1 OR MORE
19 SANCTIONS AGAINST HIS OR HER LICENSE UNDER THIS ARTICLE FOR
20 UNPROFESSIONAL, UNETHICAL, OR NEGLIGENT CONDUCT IN THE PRECEDING
21 7 YEARS.

22 (iii) HE OR SHE OPERATES, OR HAS SUPERVISORY AUTHORITY OVER,
23 AN OFFICE OR FACILITY WHERE ABORTIONS ARE PERFORMED AND THAT
24 OFFICE OR FACILITY WAS FOUND DURING A FOLLOW-UP INSPECTION TO BE
25 NONCOMPLIANT WITH HEALTH AND SAFETY REQUIREMENTS AFTER PREVIOUS
26 INSPECTIONS HAD FORMALLY IDENTIFIED THE COMPLIANCE FAILURES AND
27 NEEDED CORRECTIVE ACTIONS.

(2) SUBJECT TO SECTIONS 16221 AND 16226, IF THE DISCIPLINARY SUBCOMMITTEE FINDS THAT A PHYSICIAN IS IN VIOLATION OF SUBSECTION (1), THE DISCIPLINARY SUBCOMMITTEE SHALL IMMEDIATELY LIMIT THE PHYSICIAN'S LICENSE TO PROHIBIT THE PHYSICIAN FROM PERFORMING ABORTIONS UNTIL HE OR SHE MEETS SUBSECTION (1).

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

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

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

SEC. 17519. (1) A PHYSICIAN WHO MEETS ALL OF THE FOLLOWING SHALL MAINTAIN PROFESSIONAL LIABILITY COVERAGE OF NOT LESS THAN \$1,000,000.00, OR PROVIDE EQUIVALENT SECURITY AS DETERMINED BY THE DEPARTMENT, FOR THE PURPOSE OF COMPENSATING A WOMAN SUFFERING FROM ABORTION COMPLICATIONS CAUSED BY THE GROSS NEGLIGENCE OR MALPRACTICE OF THE PHYSICIAN:

(A) HE OR SHE PERFORMS 6 OR MORE ABORTIONS PER MONTH.

(B) MEETS ANY OF THE FOLLOWING:

(i) HE OR SHE WAS FOUND LIABLE FOR DAMAGES IN 2 OR MORE CIVIL LAWSUITS IN THE PRECEDING 7 YEARS RELATED TO HARM CAUSED BY ABORTIONS PERFORMED BY HIM OR HER.

(ii) THE DISCIPLINARY SUBCOMMITTEE HAS IMPOSED 1 OR MORE SANCTIONS AGAINST HIS OR HER LICENSE UNDER THIS ARTICLE FOR UNPROFESSIONAL, UNETHICAL, OR NEGLIGENT CONDUCT IN THE PRECEDING 7 YEARS.

(iii) HE OR SHE OPERATES, OR HAS SUPERVISORY AUTHORITY OVER, AN OFFICE OR FACILITY WHERE ABORTIONS ARE PERFORMED AND THAT

1 OFFICE OR FACILITY WAS FOUND DURING A FOLLOW-UP INSPECTION TO BE
2 NONCOMPLIANT WITH HEALTH AND SAFETY REQUIREMENTS AFTER PREVIOUS
3 INSPECTIONS HAD FORMALLY IDENTIFIED THE COMPLIANCE FAILURES AND
4 NEEDED CORRECTIVE ACTIONS.

5 (2) SUBJECT TO SECTIONS 16221 AND 16226, IF THE DISCIPLINARY
6 SUBCOMMITTEE FINDS THAT A PHYSICIAN IS IN VIOLATION OF SUBSECTION
7 (1), THE DISCIPLINARY SUBCOMMITTEE SHALL IMMEDIATELY LIMIT THE
8 PHYSICIAN'S LICENSE TO PROHIBIT THE PHYSICIAN FROM PERFORMING
9 ABORTIONS UNTIL HE OR SHE MEETS SUBSECTION (1).

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

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

25 (2) The department shall promulgate rules to differentiate a
26 freestanding surgical outpatient facility from a private office
27 of a physician, dentist, podiatrist, or other health

1 professional. The department shall specify in the rules that a
2 facility including, but not limited to, a private practice office
3 described in this subsection ~~in which 50% or more of the patients~~
4 ~~annually served at the facility undergo an abortion~~ must be
5 licensed under this article as a freestanding surgical outpatient
6 facility **IF THAT FACILITY PUBLICLY ADVERTISES OUTPATIENT ABORTION**
7 **SERVICES AND PERFORMS 6 OR MORE ABORTIONS PER MONTH.**

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
11 administrative code, but shall include in the rules standards for
12 a freestanding surgical outpatient facility ~~in which 50% or more~~
13 ~~of the patients annually served in the freestanding surgical~~
14 ~~outpatient facility undergo an abortion.~~ **OR PRIVATE PRACTICE**
15 **OFFICE THAT PUBLICLY ADVERTISES OUTPATIENT ABORTION SERVICES AND**
16 **PERFORMS 6 OR MORE ABORTIONS PER MONTH.** The department shall
17 assure that the standards are consistent with the most recent
18 United States supreme court decisions regarding state regulation
19 of abortions.

20 (4) Subject to section 20145 and part 222, the department
21 may modify or waive 1 or more of the rules contained in R
22 325.3801 to R 325.3877 of the Michigan administrative code
23 regarding construction or equipment standards, or both, for a
24 freestanding surgical outpatient facility ~~in which 50% or more of~~
25 ~~the patients annually served in the freestanding surgical~~
26 ~~outpatient facility undergo an abortion.~~ **THAT PUBLICLY ADVERTISES**
27 **OUTPATIENT ABORTION SERVICES AND PERFORMS 6 OR MORE ABORTIONS PER**

1 MONTH, if both of the following conditions are met:

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

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

14 (5) As used in this subsection, "abortion" means that term
15 as defined in section 17015.

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

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

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

4 Enacting section 1. This amendatory act takes effect January
5 1, 2013.