HOUSE BILL No. 5185

December 10, 2013, Introduced by Reps. Stallworth and Walsh and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled

"Public health code,"

by amending sections 7212, 7214, 7301a, 7303, 16169, 16170a, 16174, 16192, 16216, 16221, 16222, 16226, 16231, 16231a, 16232, 16233, 16237, 16241, 16245, 16315, 17754, 17768, 17775, and 20176a (MCL 333.7212, 333.7214, 333.7301a, 333.7303, 333.16169, 333.16170a, 333.16174, 333.16192, 333.16216, 333.16221, 333.16222, 333.16226, 333.16231, 333.16231a, 333.16232, 333.16233, 333.16237, 333.16241, 333.16245, 333.16315, 333.17754, 333.17768, 333.17775, and 333.20176a), section 7212 as amended by 2012 PA 183, section 7214 as amended by 1982 PA 352, section 7301a as amended by 2006 PA 392, section 7303 as amended by 1988 PA 60, sections 16169 and 16170a as added and section 16192 as

HOUSE BILL No. 5185

amended by 1993 PA 80, section 16174 as amended by 2012 PA 49, sections 16216 and 16237 as added and section 16241 as amended by 1993 PA 87, section 16221 as amended by 2012 PA 501, sections 16222 and 16231a as added and sections 16232 and 17768 as amended by 1993 PA 79, section 16226 as amended by 2012 PA 499, sections 16231 and 16233 as amended by 2010 PA 382, section 16245 as amended by 2011 PA 223, section 16315 as amended by 2009 PA 216, section 17754 as amended by 2012 PA 209, section 17775 as added by 2012 PA 383, and section 20176a as amended by 1994 PA 52, and by adding article 8; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 7212. (1) The following controlled substances are included in schedule 1:

(a) Any of the following opiates, including their isomers, esters, the ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, when the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Acetylmethadol	Difenoxin	Noracymethadol
Allylprodine	Dimenoxadol	Norlevorphanol
Alpha-acetylmethadol	Dimepheptanol	Normethadone
Alphameprodine	Dimethylthiambutene	Norpipanone
Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
Benzethidine	Dipipanone	Phenampromide
Betacetylmethadol	Ethylmethylthiambutene	Phenomorphan
Betameprodine	Etonitazene	Phenoperidine
Betamethadol	Etoxeridine	Piritramide

Betaprodine	Furethidine	Proheptazine
Clonitazene	Hydroxypethidine	Properidine
Dextromoramide	Ketobemidone	Propiram
Diampromide	Levomoramide	Racemoramide
Diethylthiambutene	Levophenacylmorphan	Trimeperidine
	Morpheridine	

(b) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

Acetorphine	Drotebanol	Morphine-N-Oxide
Acetyldihydrocodeine	Etorphine	Myrophine
Benzylmorphine	Heroin	Nicocodeine
Codeine methylbromide	Hydromorphinol	Nicomorphine
Codeine-N-Oxide	Methyldesorphine	Normorphine
Cyprenorphine	Methyldihydromorphine	Pholcodine
Desomorphine	Morphine methylbromide	Thebacon
Dihydromorphine	Morphine methylsulfonate	

(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, when the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

2-Methylamino-1-phenylpropan-1-one

Some trade and other names:

Methcathinone

Cat
Ephedrone
3, 4-methylenedioxy amphetamine
5-methoxy-3, 4-methylenedioxy
amphetamine
3, 4, 5-trimethoxy amphetamine
Bufotenine
Some trade and other names:
3-(B-dimethylaminoethyl)-5 hydrozyindole
3-(2-dimethylaminoethyl)-5 indolol
N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine
Mappine
2, 5-Dimethoxyamphetamine
Some trade or other names:
2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA
4-Bromo-2, 5-Dimethoxyamphetamine
Some trade or other names:
4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo
2,5-DMA
Diethyltryptamine
Some trade and other names:
N,N-Diethyltryptamine; DET
Dimethyltryptamine
Some trade or other names:
DMT
4-methyl-2, 5-dimethoxyamphetamine
Some trade and other names:
4-methyl-2, 5-dimethoxy-a-methyl-phenethylamine
DOM, STP
4-methoxyamphetamine
Some trade or other names:

4-methoxy-a-methylphenethylamine; paramethoxy amphetamine; PMA

Ibogaine

Some trade and other names:

7-Ethyl-6,6a,7,8,9,10,12,13 Octahydro-2-methoxy-6,9-methano-5H- pyrido (1, 2:1, 2 azepino 4, 5-b) indole

tabernanthe iboga

Lysergic acid diethylamide

Marihuana**, INCLUDING PHARMACEUTICAL-GRADE CANNABIS**

Mecloqualone

Mescaline

Peyote

N-ethyl-3 piperidyl benzilate

N-methyl-3 piperidyl benzilate

Psilocybin

Psilocyn

Thiophene analog of phencyclidine

Some trade or other names:

1-(1-(2-thienyl)cyclohexyl) piperidine~~)~~

2-thienyl analog of phencyclidine; TPCP

(d) Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of cannabis and synthetic substances, derivatives, and their isomers with similar chemical structure or pharmacological activity, or both, such as the following, are included in schedule 1:

(*i*) /\[1] cis or trans tetrahydrocannabinol, and their optical isomers.

(*ii*) /\[6] cis or trans tetrahydrocannabinol, and their optical

isomers.

(*iii*) $\Delta^{3,4}$ cis or trans tetrahydrocannabinol, and their optical isomers.

(e) Compounds of structures of substances referred to in subdivision (d), regardless of numerical designation of atomic positions, are included.

(f) Gamma-hydroxybutyrate and any isomer, salt, or salt of isomer of gamma-hydroxybutyrate.

Some trade and other names:
Sodium oxybate
4-hydroxybutanoic acid monosodium salt

(g) 3,4-methylenedioxymethamphetamine.

Some trade and other names:
Ecstasy
MDMA

(h) N-Benzylpiperazine

Some trade and other names:
BZP
Benzylpiperazine
1-(phenylmethyl)-piperazine

(i) 3-Chlorophenylpiperazine

Some trade and other names:
MCPP

(j) 1-(3-Trifluoromethylphenyl)piperazine

Some trade and other names:
TFMPP

(k) 4-Bromo-2,5-dimethoxybenzylpiperazine

Some trade and other names:
2C-B-BZP

(*l*) All of the following:

(*i*) (6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol.

Some trade and other names:
HU-210

(*ii*) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol and its side chain homologues.

Some trade and other names:
CP47,497

(*iii*) 1-pentyl-3-(1-naphthoyl)indole.

Some trade and other names:
JWH-018

(*iv*) 1-butyl-3-(1-naphthoyl)indole.

Some trade and other names:

JWH-073

(*v*) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone.

Some trade and other names:
JWH-015

(*vi*) [1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl]-1-naphthalenyl-methanone.

Some trade and other names:
JWH-200

(*vii*) 1-(1-pentyl-1H-indol-3-yl)-2-(2-methoxyphenyl)-ethanone.

Some trade and other names:
JWH-250

(m) Mephedrone (4-methylmethcathinone).

Some trade and other names:
4-MMC, M-Cat, meow meow, miaow miaow, bounce, bubbles, bubble love, mad cow, plant food, drone, and neo doves

(n) 4-Methyl-alpha-pyrrolidinobutyrophenone.

Some trade and other names:
MPBP

(o) Methylenedioxypyrovalerone

Some trade and other names:

MDPV, Bath salts, charge plus, cloud nine, hurricane Charlie, ivory wave, ocean, red dove, scarface, sonic, white dove, white lightning

(p) 5,6-Methylenedioxy-2-aminoindane

Some trade and other names:

MDAI

Woof-woof

(q) Naphyrone (Naphthylpyrovalerone)

Some trade and other names:

NRG-1

Rave

(r) Pyrovalerone (1-(4-Methylphenyl)-2-(1-pyrrolidinyl)-1-pentanone)

(s) Catha edulis; except as provided in subdivision (t) and section 7218, all parts of the plant presently classified botanically as catha edulis, whether growing or not; the leaves and seeds of that plant; any extract from any part of that plant; and every compound, salt, derivative, mixture, or preparation of that plant or its leaves, seeds, or extracts.

Some trade and other names:

Khat

Qat

(t) Cathinone.

(u) Salvia divinorum; except as provided in subdivision (v), all parts of the plant presently classified botanically as salvia divinorum, whether growing or not; the leaves and seeds of that plant; any extract from any part of that plant; and every compound, salt, derivative, mixture, or preparation of that plant or its leaves, seeds, or extracts.

(v) Salvinorin A.

(2) MARIHUANA, INCLUDING PHARMACEUTICAL-GRADE CANNABIS, IS A SCHEDULE 2 CONTROLLED SUBSTANCE IF IT IS MANUFACTURED, OBTAINED, STORED, DISPENSED, POSSESSED, GROWN, OR DISPOSED OF IN COMPLIANCE WITH THIS ACT AND AS AUTHORIZED BY FEDERAL AUTHORITY.

(3) ~~(2)~~ For purposes of subsection (1), "isomer" includes the optical, position, and geometric isomers.

Sec. 7214. The following controlled substances are included in schedule 2:

(a) Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(*i*) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate excluding nalaxone and its salts, and excluding naltrexone and its salts, but including the following:

Raw opium	Etorphine hydrochloride
Opium extracts	Hydrocodone
Opium Fluid-extracts	Hydromorphone
Powdered opium	Metopon
Granulated opium	Morphine
Tincture of opium	Oxycodone
Codeine	Oxymorphone
Ethylmorphine	Thebaine

(*ii*) A salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with a substance referred to in **THIS** subdivision**,** ~~(a),~~ except that these substances do not include the isoquinoline alkaloids of opium.

(*iii*) Opium poppy, poppy straw, and concentrate of poppy straw, the crude extract of poppy straw in either liquid, solid, or powder form, which contains the phenanthrene alkaloids of the opium poppy.

(*iv*) Coca leaves and any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of these substances, except that the substances do not include decocainized coca leaves or extraction of coca leaves which extractions do not contain cocaine or ecgonine. The substances include cocaine, its salts, stereoisomers, and salts of stereoisomers when the existence of the salts, stereoisomers, and salts of stereoisomers is possible within the specific chemical designation.

(b) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, when the existence

of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

Alphaprodine	Fentanyl
Anileridine	Isomethadone
Bezitramide	Levomethorphan
Dihydrocodeine	Levorphanol
Diphenoxylate	Metazocine

Methadone

Methadone-Intermediate, 4-cyano-2dimethylamino-4, 4-diphenyl butane

Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid

Pethidine

Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine

Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate

Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid

Phenazocine	Racemethorphan
Piminodine	Racemorphan

(c) Unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having potential for abuse associated with a stimulant effect on the nervous system:

(*i*) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

(*ii*) Any substance which contains any quantity of

methamphetamine, including its salts, stereoisomers, and salts of stereoisomers.

(*iii*) Phenmetrazine and its salts.

(*iv*) Methylphenidate and its salts.

(d) Any material, compound, mixture, or preparation, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation as listed in schedule 2, which contains any quantity of the following substances having a potential for abuse associated with the depressant effect on the central nervous system: methaqualone, amobarbital, pentobarbital, or secobarbital; or, any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof in combination with itself, with another, or with 1 or more other controlled substances.

(e) Marihuana, but only for ~~use as provided in sections 7335 and 7336.~~**THE PURPOSE OF TREATING A DEBILITATING MEDICAL CONDITION AS THAT TERM IS DEFINED IN SECTION 3(B) OF THE MICHIGAN MEDICAL MARIHUANA ACT, 2008 IL 1, MCL 333.26423, AND AS AUTHORIZED UNDER THIS ACT.**

Sec. 7301a. Licensing activities conducted under this part are subject to sections 16201, 16203, 16299, 16303, 16305, 16307, 16309, and 16313 **AND ARTICLE 8**.

Sec. 7303. (1) A person who manufactures, distributes, prescribes, or dispenses a controlled substance in this state or who proposes to engage in the manufacture, distribution, prescribing, or dispensing of a controlled substance in this

state shall obtain a license issued by the administrator in accordance with the rules. A person who has been issued a controlled substances license by the administrator under this article and a license under article 15 shall renew the controlled substances license concurrently with the renewal of the license issued under article 15, and for an equal number of years.

(2) A person licensed by the administrator under this article to manufacture, distribute, prescribe, dispense, or conduct research with controlled substances may possess, manufacture, distribute, prescribe, dispense, or conduct research with those substances to the extent authorized by its license and in conformity with the other provisions of this article.

(3) A LICENSE ISSUED UNDER THIS ARTICLE TO MANUFACTURE, DISTRIBUTE, PRESCRIBE, OR DISPENSE PHARMACEUTICAL-GRADE CANNABIS AND THE CONDUCT OF THE LICENSEE IS SUBJECT TO THE ADDITIONAL REQUIREMENTS OF ARTICLE 8.

(4) ~~(3)~~ The following persons need not be licensed and may lawfully possess controlled substances or prescription forms under this article:

(a) An agent or employee of a licensed manufacturer, distributor, prescriber, or dispenser of a controlled substance if acting in the usual course of the agent's or employee's business or employment.

(b) A common or contract carrier or warehouseman, or an employee thereof, whose possession of a controlled substance or prescription form is in the usual course of business or employment.

(c) An ultimate user or agent in possession of a controlled substance or prescription form pursuant to a lawful order of a practitioner or in lawful possession of a schedule 5 substance.

(5) ~~(4)~~ The administrator may waive or include by rule the requirement for licensure of certain manufacturers, distributors, prescribers, or dispensers, if it finds the waiver or inclusion is consistent with the public health and safety.

(6) ~~(5)~~ A separate license is required at each principal place of business or professional practice where the applicant manufactures, distributes, prescribes, or dispenses controlled substances.

(7) ~~(6)~~ As a requisite for licensure, the administrator may inspect the establishment of a licensee or applicant for licensure in accordance with the administrator's rule.

(8) ~~(7)~~ A person licensed under this article to distribute controlled substances shall report to the administrator on a quarterly basis all schedule 2 controlled substances and those controlled substances designated by the administrator pursuant to this subsection ~~which~~ **THAT** are sold to licensed practitioners and retail pharmacies. The report shall be in writing and shall include the name of each licensed practitioner and retail pharmacy to whom the controlled substance was distributed. A report under this subsection may be transmitted electronically, if the transmission is ultimately reduced to writing. The administrator shall designate by rule the controlled substances in schedules 3 to 5 to be reported under this subsection.

ARTICLE 8

PHARMACEUTICAL-GRADE CANNABIS

PART 81

GENERAL PROVISIONS

SEC. 8101. (1) FOR PURPOSES OF THIS ARTICLE, THE WORDS AND PHRASES DEFINED IN SECTIONS 8103 TO 8107 HAVE THE MEANINGS ASCRIBED TO THEM IN THOSE SECTIONS.

(2) IN ADDITION, ARTICLE 1 CONTAINS GENERAL DEFINITIONS AND PRINCIPLES OF CONSTRUCTION APPLICABLE TO ALL ARTICLES IN THIS ACT.

SEC. 8103. (1) "APPLICANT" MEANS THE PERSON SUBMITTING AN APPLICATION FOR A NEW LICENSE OR LICENSE RENEWAL UNDER PART 82 AND INCLUDES EACH INDIVIDUAL IDENTIFIED IN THE APPLICATION AS AN OWNER, OPERATOR, OFFICER, DIRECTOR, PARTNER, MEMBER, OR MANAGER OF THE APPLICANT.

(2) "CBD" AND "CBD ACID" MEAN CANNABIDIOL AND CANNABIDIOL ACID.

(3) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

(4) "ELIGIBLE PATIENT" MEANS AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF PART 84 AND HAS BEEN ISSUED AN ENHANCED PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARD.

(5) "ENHANCED PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARD" OR "REGISTRATION CARD" MEANS THE REGISTRATION CARD ISSUED TO AN ELIGIBLE PATIENT UNDER PART 84.

(6) "GOOD MORAL CHARACTER" MEANS THAT TERM AS DEFINED IN SECTION 1 OF 1974 PA 381, MCL 338.41.

SEC. 8105. (1) "MARIHUANA" MEANS THAT TERM AS DEFINED IN SECTION 7106 AND INCLUDES PHARMACEUTICAL-GRADE CANNABIS.

(2) "MEDICAL USE" MEANS THE PURCHASE, SALE, POSSESSION, USE, INTERNAL POSSESSION, DELIVERY, TRANSFER, OR TRANSPORTATION OF PHARMACEUTICAL-GRADE CANNABIS OR PARAPHERNALIA RELATING TO THE ADMINISTRATION OF PHARMACEUTICAL-GRADE CANNABIS TO TREAT OR ALLEVIATE AN ELIGIBLE PATIENT'S DEBILITATING MEDICAL CONDITION.

(3) "MICHIGAN MEDICAL MARIHUANA ACT" MEANS THE MICHIGAN MEDICAL MARIHUANA ACT, 2008 IL 1, MCL 333.26421 TO 333.26430.

(4) "PHARMACEUTICAL-GRADE CANNABIS" MEANS A GRADE OF CANNABIS THAT IS CULTIVATED FOR THE PURPOSES OF THIS ARTICLE; THAT IS FREE OF CHEMICAL RESIDUES SUCH AS FUNGICIDES AND INSECTICIDES AND IS TESTED BY VALIDATED METHODS TO DETERMINE ITS CANNABINOID LEVELS, SPECIFICALLY, THC AND THC ACID LEVELS AND CBD AND CBD ACID LEVELS AND COMPLIES WITH THE STANDARDS SET FORTH IN SECTION 8303(6) FOR ITS MICROBIAL, MYCOTOXIN, AND METAL CONTENTS, INCLUDING HEAVY METALS; AND THAT MEETS ANY OTHER NECESSARY REQUIREMENTS TO BE CONSIDERED IN COMPLIANCE WITH GOOD MANUFACTURING PRACTICES AS PRESCRIBED IN RULES PROMULGATED BY THE DEPARTMENT UNDER THIS ARTICLE.

(5) "PHARMACEUTICAL-GRADE CANNABIS FUND" OR "FUND" MEANS THE PHARMACEUTICAL-GRADE CANNABIS FUND CREATED IN SECTION 8113.

(6) "PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY" OR "LICENSED FACILITY" MEANS ANY SECURE ENTITY, OPERATION, OR FACILITY AT OR THROUGH WHICH PHARMACEUTICAL-GRADE CANNABIS IS MANUFACTURED, CULTIVATED, AND TESTED IN THIS STATE FOR LAWFUL MEDICAL USE AS PROVIDED FOR IN THIS ARTICLE AND THE MICHIGAN MEDICAL MARIHUANA ACT. PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY DOES NOT INCLUDE A QUALIFYING PATIENT OR PRIMARY

CAREGIVER WHO POSSESSES OR CULTIVATES MARIHUANA IN THE MANNER PRESCRIBED IN THE MICHIGAN MEDICAL MARIHUANA ACT OR AN ELIGIBLE PATIENT WHO POSSESSES PHARMACEUTICAL-GRADE CANNABIS IN THE MANNER PRESCRIBED IN THIS ARTICLE.

SEC. 8107. (1) "QUALIFYING PATIENT" MEANS AN INDIVIDUAL WHO HAS BEEN ISSUED A REGISTRY IDENTIFICATION CARD AS A QUALIFYING PATIENT UNDER THE MICHIGAN MEDICAL MARIHUANA ACT.

(2) "THC" MEANS DELTA-9-TETRAHYDROCANNABINOL AND TETRAHYDROCANNABINOL ACID.

SEC. 8109. (1) A PERSON SHALL NOT MANUFACTURE, DISTRIBUTE, PRESCRIBE, OR DISPENSE PHARMACEUTICAL-GRADE CANNABIS WITHOUT FIRST OBTAINING A LICENSE TO MANUFACTURE, DISTRIBUTE, PRESCRIBE, OR DISPENSE A CONTROLLED SUBSTANCE UNDER ARTICLE 7.

(2) A LICENSE ISSUED UNDER ARTICLE 7 TO MANUFACTURE, DISTRIBUTE, PRESCRIBE, OR DISPENSE PHARMACEUTICAL-GRADE CANNABIS AND THE CONDUCT OF A PERSON LICENSED TO MANUFACTURE, DISTRIBUTE, PRESCRIBE, OR DISPENSE PHARMACEUTICAL-GRADE CANNABIS UNDER THAT LICENSE IS SUBJECT TO THE ADDITIONAL REQUIREMENTS OF THIS ARTICLE.

(3) ARTICLE 7 AND THIS ARTICLE DO NOT APPLY TO CONDUCT PERMITTED UNDER THE MICHIGAN MEDICAL MARIHUANA ACT.

SEC. 8111. (1) BEGINNING ON THE EFFECTIVE DATE OF THIS ARTICLE, THE DIRECTOR MAY CHARGE A REASONABLE FEE FOR LICENSING, REGISTRATION, INSPECTION, TESTING, OR OTHER ACTIVITY OR SERVICE PROVIDED BY THE DEPARTMENT UNDER THIS ARTICLE. THE FEE AUTHORIZED UNDER THIS SUBSECTION IS IN ADDITION TO ANY FEE AUTHORIZED UNDER ARTICLE 7. ALL FEES PERMITTED UNDER THIS SECTION SHALL BE

DELIVERED TO THE STATE TREASURER ON A MONTHLY BASIS FOR DEPOSIT IN THE PHARMACEUTICAL-GRADE CANNABIS FUND.

(2) BEFORE COLLECTING A FEE UNDER THIS ARTICLE, THE DEPARTMENT SHALL DEVELOP AND PUBLISH A COMPREHENSIVE SCHEDULE OF FEES. THE SCHEDULE SHALL INCLUDE A DESCRIPTION OF EACH ACTIVITY OR SERVICE AND THE MAXIMUM FEE CHARGED FOR THAT ACTIVITY OR SERVICE. THE DEPARTMENT SHALL INCLUDE A STATEMENT OF THE RATIONALE USED IN DETERMINING THE FEES CONTAINED IN THE SCHEDULE. THE DEPARTMENT SHALL REVISE THE FEE SCHEDULE FROM TIME TO TIME SO THAT THE AMOUNT OF FEES COLLECTED UNDER THIS ARTICLE DOES NOT EXCEED THE AMOUNT NECESSARY TO FUND THE DUTIES OF THE DEPARTMENT UNDER THIS ARTICLE.

SEC. 8113. (1) THE PHARMACEUTICAL-GRADE CANNABIS FUND IS CREATED WITHIN THE STATE TREASURY. IN ADDITION TO THE FEES DESCRIBED IN SECTION 8111, THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS. MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

(2) THE DEPARTMENT IS THE ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES AND THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON APPROPRIATION, ONLY FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING, ADMINISTERING, AND ENFORCING THIS ARTICLE.

SEC. 8115. THE DEPARTMENT SHALL PROMULGATE RULES NECESSARY

TO CARRY OUT THIS ARTICLE. THE RULES SHALL ADDRESS, BUT ARE NOT REQUIRED TO BE LIMITED TO ADDRESSING, ALL OF THE FOLLOWING SUBJECTS:

(A) IF NOT SPECIFICALLY PROVIDED FOR IN THIS ARTICLE, ACTIVITIES NECESSARY FOR THE COMPLIANCE WITH OR ENFORCEMENT OF OR ACTIVITIES THAT CONSTITUTE A VIOLATION OF THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO, PROCEDURES AND GROUNDS FOR DENYING, SUSPENDING, OR REVOKING A LICENSE OR REGISTRATION CARD UNDER THIS ARTICLE.

(B) INSTRUCTIONS FOR LOCAL HEALTH DEPARTMENTS AND LAW ENFORCEMENT OFFICERS.

(C) ALL FORMS NECESSARY OR CONVENIENT FOR THE IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT OF THIS ARTICLE.

(D) ACTIVITIES THAT CONSTITUTE OR RESULT IN MISREPRESENTATION OR UNFAIR, DECEPTIVE PRACTICES.

(E) PROCEDURES AND FORMS FOR ISSUING ENHANCED PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARDS.

(F) REGULATING THE MANUFACTURING, INVENTORY, STORAGE, DISPOSAL, AND SALE OF PHARMACEUTICAL-GRADE CANNABIS AND SPECIFYING LEGITIMATE SOURCES FOR OBTAINING SEED TO CULTIVATE PHARMACEUTICAL-GRADE CANNABIS.

(G) THE QUARTERLY REPORTING BY LICENSED FACILITIES OF THEIR INVENTORY, WHICH SHALL INCLUDE THE NUMBER OF PLANTS UNDER CULTIVATION, THE AMOUNT OF DRIED PLANT MATERIAL, THE AMOUNT OF DESTROYED PLANTS, AND ALL SALES.

(H) COMPLIANCE WITH FEDERAL REGULATORY REQUIREMENTS.

(I) HEALTH AND SANITARY REQUIREMENTS FOR LICENSED

FACILITIES.

(J) RECORD KEEPING, RECORD RETENTION, RECORD STORAGE, AND RECORD SECURITY REQUIREMENTS FOR PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES.

(K) AUDIT REQUIREMENTS FOR LICENSED FACILITIES, WHICH SHALL INCLUDE SELF REPORTING OF INVENTORY ON A MONTHLY BASIS, SUBJECT TO INSPECTION BY DESIGNATED STATE AND FEDERAL AUTHORITIES.

(*l*) PHYSICAL SECURITY REQUIREMENTS FOR PHARMACEUTICAL-GRADE CANNABIS THAT AT A MINIMUM INCLUDE LIGHTING AND ALARMS.

(M) THE REPORTING AND TRANSMITTAL OF MONTHLY SALES AND INCOME TAX PAYMENTS FOR LICENSED FACILITIES.

(N) AUTHORIZATION FOR THE DEPARTMENT OF TREASURY TO HAVE ACCESS TO LICENSING INFORMATION TO ENSURE SALES AND INCOME TAX PAYMENTS FOR LICENSED FACILITIES.

(O) ACTIVITIES THAT CONSTITUTE LAWFUL AND UNLAWFUL FINANCIAL ARRANGEMENTS BETWEEN LICENSED FACILITIES.

(P) THE QUANTITY OF PHARMACEUTICAL-GRADE CANNABIS PLANTS AND DRIED PLANT MATERIAL THAT A LICENSED FACILITY MAY POSSESS IN ITS INVENTORY AT ANY TIME.

(Q) OTHER MATTERS NECESSARY FOR THE FAIR, IMPARTIAL, STRINGENT, AND COMPREHENSIVE IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT OF THIS ARTICLE TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF THE RESIDENTS OF THIS STATE.

SEC. 8117. THE DEPARTMENT SHALL ESTABLISH A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY REGISTRY. THE REGISTRY SHALL BE AN ONLINE DATABASE THAT CONTAINS INFORMATION REGARDING THE PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES LICENSED UNDER

PART 82. INFORMATION IN THE DATABASE SHALL BE MADE AVAILABLE TO THE PUBLIC.

SEC. 8119. BY JANUARY 31 OF EACH CALENDAR YEAR, THE DEPARTMENT SHALL SUBMIT TO THE LEGISLATURE AN ANNUAL REPORT FOR THE PREVIOUS CALENDAR YEAR THAT CONTAINS ALL OF THE FOLLOWING INFORMATION:

(A) THE TOTAL AMOUNT OF FEES COLLECTED UNDER THIS ARTICLE.

(B) ALL COSTS RELATED TO PERFORMING THE DUTIES OF THE DEPARTMENT UNDER THIS ARTICLE.

(C) FINES, SUSPENSIONS, OR LICENSE REVOCATIONS THAT WERE IMPOSED BY THE DEPARTMENT UNDER THIS ARTICLE.

(D) ANY OTHER INFORMATION THE DEPARTMENT CONSIDERS APPROPRIATE UNDER THIS ARTICLE.

PART 81A

PRESCRIBING AND DISPENSING PHARMACEUTICAL-GRADE CANNABIS

SEC. 8151. A PHYSICIAN WHO DETERMINES THAT HIS OR HER PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT FROM THE USE OF PHARMACEUTICAL-GRADE CANNABIS TO TREAT OR ALLEVIATE THE PATIENT'S DEBILITATING MEDICAL CONDITION OR SYMPTOMS OF THE PATIENT'S DEBILITATING MEDICAL CONDITION MAY RECOMMEND THE ISSUANCE OF AN ENHANCED PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARD TO THAT PATIENT AS AN ELIGIBLE PATIENT.

SEC. 8152. (1) THE DEPARTMENT MAY ISSUE AN ENHANCED PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARD TO AN ELIGIBLE PATIENT WHO IS RECOMMENDED BY A PHYSICIAN TO OBTAIN A REGISTRATION CARD AND WHO PROPERLY APPLIES FOR THAT CARD. BEFORE

ISSUING A CARD TO AN ELIGIBLE PATIENT UNDER THIS SECTION, THE DEPARTMENT SHALL DETERMINE WHETHER THE INDIVIDUAL HAS PREVIOUSLY BEEN CONVICTED OF ILLEGALLY MANUFACTURING, CREATING, DISTRIBUTING, POSSESSING, OR USING A CONTROLLED SUBSTANCE OR CONSPIRING OR ATTEMPTING TO MANUFACTURE, CREATE, DISTRIBUTE, POSSESS, OR USE A CONTROLLED SUBSTANCE IN THIS STATE OR ELSEWHERE. IF THE INDIVIDUAL HAS PREVIOUSLY BEEN CONVICTED OF ILLEGALLY MANUFACTURING, CREATING, DISTRIBUTING, POSSESSING, OR USING A CONTROLLED SUBSTANCE OR CONSPIRING OR ATTEMPTING TO MANUFACTURE, CREATE, DISTRIBUTE, POSSESS, OR USE A CONTROLLED SUBSTANCE IN THIS STATE OR ELSEWHERE, THE DEPARTMENT SHALL NOT ISSUE A REGISTRATION CARD TO THAT INDIVIDUAL.

(2) IF AN INDIVIDUAL HAS A REGISTRY IDENTIFICATION CARD AS DEFINED IN SECTION 3 OF THE MICHIGAN MEDICAL MARIHUANA ACT, 2008 IL 1, MCL 333.26423, THE DEPARTMENT SHALL REQUIRE THE INDIVIDUAL TO SURRENDER THAT CARD BEFORE ISSUING THE INDIVIDUAL AN ENHANCED PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARD UNDER THIS SECTION.

SEC. 8153. (1) THE DEPARTMENT SHALL ENSURE THAT THE FOLLOWING INFORMATION FOR EACH PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARD IS ENTERED INTO THE LAW ENFORCEMENT INFORMATION NETWORK:

(A) THE CARD REGISTRATION NUMBER.

(B) THE NAME AND ADDRESS OF THE INDIVIDUAL TO WHOM THE CARD IS ISSUED.

(C) THE DATE THE CARD WAS ISSUED.

(D) THE NAME AND ADDRESS OF THE PHYSICIAN WHO AUTHORIZED

ISSUANCE OF THE CARD.

(2) SUBSECTION (1) DOES NOT AUTHORIZE THE DEPARTMENT TO ENTER ANY INFORMATION INTO THE LAW ENFORCEMENT INFORMATION NETWORK REGARDING THE DIAGNOSIS SUPPORTING ISSUANCE OF THE CARD OR ANY MEDICAL INFORMATION REGARDING THE INDIVIDUAL TO WHOM THE CARD HAS BEEN ISSUED.

SEC. 8154. (1) EACH PRESCRIPTION FOR PHARMACEUTICAL-GRADE CANNABIS SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION:

(A) THE DATE THE PRESCRIPTION IS WRITTEN.

(B) THE DATE THE PRESCRIPTION IS FILLED.

(C) THE DOSAGE AND INSTRUCTIONS FOR USE, WHICH SHALL INCLUDE THE PERCENTAGE OF TOTAL THC AND THE PERCENTAGE OF TOTAL CBD. A PRESCRIPTION FOR PHARMACEUTICAL-GRADE CANNABIS SHALL NOT ALLOW THE INDIVIDUAL TO WHOM THE PRESCRIPTION IS ISSUED TO OBTAIN MORE THAN 2 OUNCES OF PHARMACEUTICAL-GRADE CANNABIS WITHIN A 30-DAY PERIOD.

(D) THE NAME, ADDRESS, AND FEDERAL DRUG ENFORCEMENT ADMINISTRATION NUMBER OF THE DISPENSING PHARMACY AND THE INITIALS OF THE PHARMACIST WHO FILLS THE PRESCRIPTION.

(E) THE NAME, ADDRESS, AND AGE OF THE ELIGIBLE PATIENT FOR WHOM THE PHARMACEUTICAL-GRADE CANNABIS IS PRESCRIBED. PHARMACEUTICAL-GRADE CANNABIS SHALL NOT BE PRESCRIBED TO AN INDIVIDUAL LESS THAN 18 YEARS OF AGE.

(F) THE PRODUCT BRAND NAME, IF A BRAND NAME IS SPECIFIED BY THE PRESCRIBER.

(2) THE DEPARTMENT SHALL REQUIRE THE USE OF THE ELECTRONIC SYSTEM ESTABLISHED UNDER SECTION 7333A FOR MONITORING

PHARMACEUTICAL-GRADE CANNABIS DISPENSED UNDER THIS SECTION AS A SCHEDULE 2 CONTROLLED SUBSTANCE.

(3) THE DIRECTOR SHALL PERMIT ACCESS TO INFORMATION SUBMITTED TO THE DEPARTMENT UNDER THIS ARTICLE ONLY TO THE FOLLOWING INDIVIDUALS AND AS PROVIDED IN THIS ARTICLE:

(A) EMPLOYEES AND AGENTS OF THE DEPARTMENT AUTHORIZED BY THE DIRECTOR OF THE DEPARTMENT.

(B) EMPLOYEES OF THE DEPARTMENT OF STATE POLICE AUTHORIZED BY THE ADMINISTRATOR AS DEFINED IN ARTICLE 7 FOR THE PURPOSE OF COOPERATING AND ASSISTING A GOVERNMENTAL AGENCY THAT IS RESPONSIBLE FOR THE ENFORCEMENT OF LAWS RELATING TO CONTROLLED SUBSTANCES OR A PRESCRIBING PHYSICIAN CONCERNING AN INDIVIDUAL SUSPECTED OF ATTEMPTING TO OBTAIN A CONTROLLED SUBSTANCE BY FRAUD, DECEIT, OR MISREPRESENTATION.

(C) A PERSON WITH WHOM THE DEPARTMENT HAS CONTRACTED UNDER SUBSECTION (8).

(4) INFORMATION SUBMITTED TO THE DEPARTMENT UNDER THIS SECTION IS CONFIDENTIAL, BUT MAY BE RELEASED TO PERSONS AUTHORIZED BY THE DIRECTOR TO CONDUCT RESEARCH STUDIES OR TO OTHER PERSONS AUTHORIZED BY THE DIRECTOR. HOWEVER, SUBJECT TO SUBSECTION (5) AND SECTION 8153, INFORMATION SHALL BE RELEASED FOR STATISTICAL PURPOSES ONLY.

(5) THE SYSTEM FOR RETRIEVAL OF INFORMATION SUBMITTED TO THE DEPARTMENT UNDER THIS SECTION SHALL BE DESIGNED IN ALL RESPECTS SO AS TO PRECLUDE IMPROPER ACCESS TO INFORMATION.

(6) EXCEPT AS OTHERWISE PROVIDED IN THIS PART, INFORMATION SUBMITTED TO THE DEPARTMENT UNDER THIS SECTION SHALL BE USED ONLY

FOR BONA FIDE DRUG-RELATED CRIMINAL INVESTIGATORY OR EVIDENTIARY PURPOSES OR FOR INVESTIGATORY OR EVIDENTIARY PURPOSES IN CONNECTION WITH THE FUNCTIONS OF 1 OR MORE OF THE LICENSING BOARDS CREATED IN ARTICLE 15.

(7) THE IDENTITY OF AN INDIVIDUAL ELIGIBLE PATIENT THAT IS SUBMITTED TO THE DEPARTMENT UNDER TO THIS SECTION SHALL BE REMOVED FROM THE SYSTEM FOR RETRIEVAL OF THE INFORMATION DESCRIBED IN THIS SECTION AND SHALL BE DESTROYED AND RENDERED IRRETRIEVABLE NOT LATER THAN THE END OF THE CALENDAR YEAR FOLLOWING THE YEAR IN WHICH THE INFORMATION WAS SUBMITTED TO THE DEPARTMENT. HOWEVER, AN INDIVIDUAL ELIGIBLE PATIENT IDENTITY THAT IS NECESSARY FOR USE IN A SPECIFIC ONGOING INVESTIGATION CONDUCTED IN ACCORDANCE WITH THIS ACT MAY BE RETAINED IN THE SYSTEM UNTIL THE END OF THE YEAR IN WHICH THE NECESSITY FOR RETENTION OF THE IDENTITY ENDS.

(8) THE DEPARTMENT MAY ENTER INTO CONTRACTUAL AGREEMENTS FOR THE ADMINISTRATION OF THIS SECTION.

PART 82

FACILITY LICENSING

SEC. 8201. TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF RESIDENTS OF THIS STATE, THE DEPARTMENT SHALL LICENSE FACILITIES UNDER THIS ARTICLE TO CULTIVATE, MANUFACTURE, AND TEST PHARMACEUTICAL-GRADE CANNABIS IN THIS STATE. THE DEPARTMENT SHALL IMPLEMENT, ADMINISTER, AND ENFORCE THIS ARTICLE TO ENSURE THAT A SAFE, PURE, DOSAGE–CONSISTENT GRADE OF PHARMACEUTICAL-GRADE CANNABIS IS AVAILABLE TO ELIGIBLE PATIENTS WHO ARE RESIDENTS OF THIS STATE.

SEC. 8205. (1) THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO AN APPLICANT TO OPERATE A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY UNLESS THE DEPARTMENT IS SATISFIED THAT ALL OF THE FOLLOWING REQUIREMENTS ARE MET:

(A) ALL FEES REQUIRED UNDER THIS ARTICLE HAVE BEEN PAID.

(B) THE APPLICANT WILL OPERATE THE LICENSED FACILITY IN COMPLIANCE WITH THIS ARTICLE.

(C) THE APPLICANT IS AN ADULT OF GOOD MORAL CHARACTER.

(D) THE APPLICANT IS NOT DELINQUENT IN FILING ANY TAX RETURNS WITH A TAXING AGENCY; PAYING ANY TAXES, INTEREST, OR PENALTIES; PAYING ANY JUDGMENTS DUE TO A GOVERNMENT AGENCY; REPAYING GOVERNMENT-INSURED STUDENT LOANS; OR PAYING CHILD SUPPORT.

(E) THE APPLICANT WILL NOT HIRE OR CONTRACT WITH ANY INDIVIDUAL IN THE COURSE OF OPERATING A LICENSED FACILITY WITHOUT FIRST CONDUCTING A CRIMINAL HISTORY CHECK IN THE MANNER PRESCRIBED IN RULES PROMULGATED UNDER THIS ARTICLE.

(F) THE PREMISES WERE INSPECTED AND THE INSPECTION OF THE PREMISES AND THE OPERATIONS OF THE APPLICANT DID NOT REVEAL ANY REASON TO DENY THE LICENSE.

(G) THE CRIMINAL HISTORY CHECK CONDUCTED UNDER SUBSECTION (2) DID NOT REVEAL ANY FELONY CONVICTIONS.

(H) ANY OTHER CRITERIA ESTABLISHED IN RULES PROMULGATED UNDER THIS ARTICLE.

(2) AT THE TIME OF FILING AN APPLICATION FOR ISSUANCE OR RENEWAL OF A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY LICENSE, AN APPLICANT SHALL SUBMIT A SET OF HIS OR HER

FINGERPRINTS AND FILE PERSONAL HISTORY INFORMATION CONCERNING HIS OR HER QUALIFICATIONS FOR A LICENSE UNDER THIS ARTICLE. THE DEPARTMENT SHALL SUBMIT THE FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY CHECKS. THE DEPARTMENT OF STATE POLICE SHALL FORWARD THE FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY CHECKS. THE DEPARTMENT MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY CHECK FOR AN APPLICANT WHO HAS TWICE SUBMITTED TO A FINGERPRINT-BASED CRIMINAL HISTORY CHECK UNDER THIS PART AND WHOSE FINGERPRINTS ARE UNCLASSIFIABLE. AN APPLICANT WHO HAS PREVIOUSLY SUBMITTED FINGERPRINTS UNDER THIS PART MAY REQUEST THAT THE FINGERPRINTS ON FILE BE USED. THE DEPARTMENT SHALL USE THE INFORMATION RESULTING FROM THE FINGERPRINT-BASED CRIMINAL HISTORY CHECK TO INVESTIGATE AND DETERMINE WHETHER AN APPLICANT IS QUALIFIED TO HOLD A LICENSE UNDER THIS ARTICLE. THE DEPARTMENT MAY VERIFY ANY OF THE INFORMATION AN APPLICANT IS REQUIRED TO SUBMIT.

SEC. 8209. THE DEPARTMENT MAY DELEGATE THE DUTY OF INSPECTIONS FOR APPROVAL OR RENEWAL OF PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY LICENSES TO A LOCAL HEALTH DEPARTMENT THAT HAS THE TECHNICAL AND OTHER CAPABILITIES TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE IN THIS FIELD. THE DELEGATION SHALL NOT TAKE PLACE UNLESS THE DEPARTMENT HAS FIRST CONSULTED WITH AN AD HOC COMMITTEE THAT SHALL BE APPOINTED BY THE DEPARTMENT FOR THE PURPOSE OF ADVISING ON THAT DELEGATION. MEMBERSHIP ON THE AD HOC COMMITTEE SHALL INCLUDE REPRESENTATIVES

OF THE DEPARTMENT, LOCAL PUBLIC HEALTH AGENCIES, AND AN ASSOCIATION THAT REPRESENTS THE PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES THAT WOULD BE SUBJECT TO THE INSPECTIONS. IF DELEGATED UNDER THIS SECTION, THE STATE SHALL REIMBURSE EACH LOCAL HEALTH DEPARTMENT THE FULL AMOUNT OF THE FEES COLLECTED, AS REIMBURSEMENT FOR THE COST OF INSPECTION, ON VOUCHERS CERTIFIED BY THE LOCAL HEALTH OFFICER AND APPROVED BY THE DEPARTMENT.

SEC. 8211. NOT LATER THAN THE THIRTIETH DAY BEFORE THE EXPIRATION OF AN ANNUAL LICENSE UNDER THIS PART, A PERSON OPERATING A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SEEKING RELICENSURE SHALL APPLY FOR LICENSE RENEWAL AND SHALL PAY A FEE AS PRESCRIBED IN THIS ARTICLE. UPON COMPLIANCE BY AN APPLICANT FOR LICENSE RENEWAL WITH THE REQUIREMENTS OF THIS ARTICLE AND PAYMENT OF THE LICENSE RENEWAL FEE, THE DEPARTMENT SHALL ISSUE A RENEWAL LICENSE.

PART 83

PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY OPERATIONS

SEC. 8301. A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL ESTABLISH LEGAL CONTROL OF ITS PHYSICAL LOCATION. THE PHYSICAL LOCATION SHALL MEET ALL APPLICABLE STATE AND LOCAL ZONING LAWS.

SEC. 8303. (1) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL NOTIFY THE DEPARTMENT IN WRITING OF THE NAME, ADDRESS, AND DATE OF BIRTH OF AN OFFICER, DIRECTOR, PARTNER, MEMBER, MANAGER, OR EMPLOYEE BEFORE THE INDIVIDUAL IS ASSOCIATED WITH OR BEGINS WORKING AT THE LICENSED FACILITY. THE LICENSED FACILITY SHALL OBTAIN THE INDIVIDUAL'S IDENTIFICATION AND HAVE A

CRIMINAL HISTORY CHECK CONDUCTED TO DETERMINE IF THAT INDIVIDUAL IS QUALIFIED TO WORK AT OR BE ASSOCIATED WITH THE LICENSED FACILITY UNDER THIS ARTICLE.

(2) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL NOTIFY THE DEPARTMENT IN WRITING WITHIN 10 DAYS AFTER AN OFFICER, DIRECTOR, PARTNER, MEMBER, MANAGER, OR EMPLOYEE CEASES TO WORK AT OR OTHERWISE BE ASSOCIATED WITH THE LICENSED FACILITY.

(3) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL NOT ACQUIRE, POSSESS, CULTIVATE, DELIVER, TRANSFER, TRANSPORT, SUPPLY, SELL, OR DISPENSE PHARMACEUTICAL-GRADE CANNABIS FOR ANY PURPOSE EXCEPT AS PROVIDED IN THIS ARTICLE.

(4) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL NOT POSSESS MORE THAN THE AMOUNT OF PHARMACEUTICAL-GRADE CANNABIS PLANTS OR DRIED PHARMACEUTICAL-GRADE CANNABIS ALLOWED IN ITS INVENTORY AS PRESCRIBED IN RULES PROMULGATED UNDER THIS ARTICLE.

(5) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL DESTROY ALL MARIHUANA THAT IT CULTIVATES OR THAT IS OTHERWISE IN ITS POSSESSION THAT IS DETERMINED NOT TO BE PHARMACEUTICAL-GRADE CANNABIS. A LICENSED FACILITY SHALL KEEP RECORDS OF ITS ACTIVITIES UNDER THIS SUBSECTION IN ORDER TO VERIFY ITS COMPLIANCE TO THE DEPARTMENT.

(6) PHARMACEUTICAL-GRADE CANNABIS SHALL MEET THE FOLLOWING STANDARDS:

	MICROBIOLOGICAL
MICROBIOLOGICAL ANALYSIS	**FPL SPECIFICATIONS**
TOTAL COLIFORMS	**<3 MPN/G**

STD. PLATE COUNT AEROBIC	<100 CFU/G
STD. PLATE COUNT ANAEROBIC	<100 CFU/G
ESCHERICHIA COLI	ABSENT
SALMONELLA	ABSENT
STAPHYLOCOCCUS AUREUS	<100 CFU/G
YEAST AND MOLDS	<100 CFU/G

MYCOTOXINS

TEST	SPECIFICATION
AFLATOXIN B1	<20 µG/KG OF SUBSTANCE
AFLATOXIN B2	<20 µG/KG OF SUBSTANCE
AFLATOXIN O1	<20 µG/KG OF SUBSTANCE
AFLATOXIN O2	<20 µG/KG OF SUBSTANCE
OCHRATOXIN A	<20 µG/KG OF SUBSTANCE

HEAVY METALS

METAL	NHP ACCEPTABLE LIMITS µG/KG BW/DAY
ARSENIC	<0.14
CADMIUM	<0.09
LEAD	<0.29
MERCURY	<0.29

(7) A LICENSED FACILITY SHALL IRRADIATE ALL PHARMACEUTICAL-GRADE CANNABIS IN THE MANNER DETERMINED BY THE DEPARTMENT BEFORE DELIVERING THAT PHARMACEUTICAL-GRADE CANNABIS TO ANOTHER PERSON.

SEC. 8305. A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY MAY BE A PROFIT OR NONPROFIT ENTITY.

SEC. 8307. A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY MAY OPERATE ON ANY CALENDAR DAYS OF THE WEEK, BUT SHALL DO ALL OF

THE FOLLOWING:

(A) PROHIBIT SMOKING OR CONSUMPTION OF MARIHUANA ON ITS PREMISES.

(B) MAINTAIN ALL RECORDS REQUIRED UNDER THIS ARTICLE ON ITS PREMISES.

(C) MAKE THE LICENSED PREMISES AVAILABLE FOR INSPECTION AND SEARCH BY THE DEPARTMENT, BY LAW ENFORCEMENT OFFICERS, AND BY ANY OTHER STATE, FEDERAL, OR LOCAL GOVERNMENTAL AGENCY AUTHORIZED BY LAW OR DEPARTMENT RULE TO INSPECT THE PREMISES OF THE LICENSED FACILITY UNDER THIS ACT, DURING REGULAR BUSINESS HOURS AND WHEN THE LICENSED PREMISES ARE OCCUPIED BY THE LICENSEE OR A CLERK, SERVANT, AGENT, OR EMPLOYEE OF THE LICENSEE. EVIDENCE OF A VIOLATION OF THIS ACT OR RULES PROMULGATED UNDER THIS ACT DISCOVERED UNDER THIS SUBSECTION MAY BE SEIZED AND USED IN AN ADMINISTRATIVE OR COURT PROCEEDING.

SEC. 8309. IN ADDITION TO THE PROVISIONS OF SECTION 2946 OF THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2946, IN A PRODUCT LIABILITY ACTION AGAINST A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY, PHARMACEUTICAL-GRADE CANNABIS IS NOT DEFECTIVE OR UNREASONABLY DANGEROUS, AND THE PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY IS NOT LIABLE, IF THE PRODUCT SOLD WAS TESTED AND DETERMINED TO MEET THE STANDARDS FOR PHARMACEUTICAL-GRADE CANNABIS UNDER THIS ARTICLE.

PART 84

SALE AND DISTRIBUTION OF PHARMACEUTICAL-GRADE CANNABIS

SEC. 8401. (1) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL NOT SELL OR OTHERWISE DISTRIBUTE PHARMACEUTICAL-

GRADE CANNABIS EXCEPT AS PROVIDED IN THIS SECTION.

(2) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL NOT SELL OR OTHERWISE DISTRIBUTE PHARMACEUTICAL-GRADE CANNABIS DIRECTLY TO THE PUBLIC.

(3) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL SELL PHARMACEUTICAL-GRADE CANNABIS ONLY TO A LICENSED PHARMACIST OR RETAIL PHARMACY TO BE DISPENSED ONLY TO ELIGIBLE PATIENTS AND TO OTHER PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES FOR PURPOSES PROVIDED FOR UNDER THIS ARTICLE. PHARMACEUTICAL-GRADE CANNABIS DISPENSED BY A LICENSED PHARMACIST OR RETAIL PHARMACY SHALL HAVE AFFIXED UPON EACH PACKAGE AND CONTAINER IN WHICH THE CANNABIS IS CONTAINED A LABEL SHOWING IN LEGIBLE ENGLISH THE NAME AND ADDRESS OF THE MANUFACTURER, THE DATE THE PRESCRIPTION IS FILLED, THE DOSAGE, INCLUDING THE TOTAL PERCENTAGE OF THC AND TOTAL PERCENTAGE OF CBD, THE NAME OF THE PATIENT, AND THE NAME AND ADDRESS OF THE DISPENSING PHARMACIST.

(4) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY MAY SELL OR OTHERWISE DISTRIBUTE PHARMACEUTICAL-GRADE CANNABIS TO PHARMACIES FOR SALE OR DISTRIBUTION ONLY TO ELIGIBLE PATIENTS AS PROVIDED IN THIS ARTICLE.

(5) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL REPORT TO THE DEPARTMENT ON A QUARTERLY BASIS ALL QUANTITIES OF PHARMACEUTICAL-GRADE CANNABIS SOLD TO LICENSED PHARMACISTS, RETAIL PHARMACIES, AND OTHER PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES. THE REPORT SHALL BE IN WRITING AND SHALL INCLUDE THE NAME AND ADDRESS OF EACH PHARMACIST, RETAIL PHARMACY, AND PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY TO WHICH THE

PHARMACEUTICAL-GRADE CANNABIS IS SOLD. A REPORT UNDER THIS SUB-SECTION MAY BE TRANSMITTED ELECTRONICALLY, IF THE TRANSMISSION IS ULTIMATELY REDUCED TO WRITING.

PART 85

ENFORCEMENT

SEC. 8501. (1) THE DEPARTMENT SHALL ENFORCE THIS ARTICLE AND THE APPLICABLE PROVISIONS OF ARTICLE 7 AND SHALL CONDUCT ANNUAL INSPECTIONS OF PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE AND ARTICLE 7.

(2) UPON A FINDING THAT AN EMERGENCY EXISTS REQUIRING IMMEDIATE ACTION TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE, THE DEPARTMENT MAY ISSUE AN ORDER TO SUSPEND THE LICENSE OF A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY WITHOUT NOTICE OR HEARING. THE ORDER SHALL RECITE THE EXISTENCE OF THE EMERGENCY AND THE FACTS SUPPORTING A DETERMINATION OF THE NEED TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE. NOTWITHSTANDING THIS ACT OR THE ADMINISTRATIVE PROCEDURES ACT OF 1969, THE ORDER SHALL BE EFFECTIVE IMMEDIATELY. A PERSON TO WHOM THE ORDER IS DIRECTED SHALL COMPLY IMMEDIATELY BUT, ON APPLICATION TO THE DEPARTMENT, SHALL BE AFFORDED A HEARING WITHIN 15 DAYS. ON THE BASIS OF THE HEARING, THE ORDER OF SUMMARY SUSPENSION SHALL BE CONTINUED, MODIFIED, OR DISSOLVED NOT LATER THAN 30 DAYS AFTER THE HEARING.

SEC. 8503. (1) IN ADDITION TO ANY OTHER PENALTIES PRESCRIBED OR REMEDIES PROVIDED IN THIS ARTICLE, ARTICLE 7, AND ARTICLE 15, THE DEPARTMENT MAY, ON ITS OWN MOTION OR ON RECEIPT OF A COMPLAINT, AND AFTER AN INVESTIGATION AND A HEARING BEFORE AN

ADMINISTRATIVE LAW JUDGE AT WHICH THE PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY LICENSEE IS AFFORDED AN OPPORTUNITY TO BE HEARD, SUSPEND OR REVOKE A FACILITY LICENSE ISSUED UNDER THIS ARTICLE. THE DEPARTMENT MAY SUSPEND OR REVOKE A LICENSE FOR ANY VIOLATION BY THE LICENSEE, A BOARD MEMBER, AN AGENT, OR AN EMPLOYEE OF THE LICENSED FACILITY OR OF ANY OF THE TERMS, CONDITIONS, OR PROVISIONS OF THE LICENSE ISSUED BY THE DEPARTMENT. THE DEPARTMENT MAY ADMINISTER OATHS AND ISSUE SUBPOENAS TO REQUIRE THE PRESENCE OF PERSONS AND THE PRODUCTION OF PAPERS, BOOKS, AND RECORDS NECESSARY TO THE DETERMINATION OF ANY HEARING THAT THE DEPARTMENT IS AUTHORIZED TO CONDUCT.

(2) THE DEPARTMENT SHALL PROVIDE NOTICE OF SUSPENSION OR REVOCATION, AS WELL AS ANY REQUIRED NOTICE OF A HEARING, BY MAILING THE SAME IN WRITING TO THE LICENSED FACILITY AT THE ADDRESS CONTAINED IN THE LICENSE. IF A LICENSE IS SUSPENDED OR REVOKED, NO PART OF THE FEES PAID FOR THE LICENSE UNDER THIS ARTICLE OR UNDER ARTICLE 7 SHALL BE RETURNED TO THE LICENSEE. THE DEPARTMENT MAY SUMMARILY SUSPEND A LICENSE WITHOUT NOTICE PENDING ANY PROSECUTION, INVESTIGATION, OR PUBLIC HEARING. NOTHING IN THIS SECTION SHALL PREVENT THE SUMMARY SUSPENSION OF A LICENSE FOR A TEMPORARY PERIOD OF NOT MORE THAN 15 DAYS.

SEC. 8505. IN ANY LICENSING HEARING HELD BY THE DEPARTMENT UNDER THIS ARTICLE, A PERSON SHALL NOT REFUSE, UPON REQUEST OF THE DEPARTMENT, TO TESTIFY OR PROVIDE OTHER INFORMATION ON THE GROUNDS OF SELF-INCRIMINATION. ANY TESTIMONY OR OTHER INFORMATION PRODUCED IN THE HEARING AND ANY INFORMATION DIRECTLY OR INDIRECTLY DERIVED FROM THE TESTIMONY OR OTHER INFORMATION SHALL

NOT BE USED AGAINST THE PERSON IN ANY CRIMINAL PROSECUTION BASED ON A VIOLATION OF THIS ARTICLE EXCEPT A PROSECUTION FOR PERJURY COMMITTED WHILE TESTIFYING. CONTINUED REFUSAL TO TESTIFY OR PROVIDE OTHER INFORMATION IS GROUNDS FOR THE SUSPENSION OR REVOCATION OF A LICENSE OR REGISTRATION CARD ISSUED UNDER THIS ARTICLE.

SEC. 8507. (1) THE OWNER, OPERATOR, OR AGENT OF A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY WHO KNOWINGLY VIOLATES THIS ARTICLE OR WHO ESTABLISHES OR OPERATES A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY IN VIOLATION OF THIS ARTICLE IS GUILTY OF A CRIME AS FOLLOWS:

(A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) AND (C), THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN $10,000.00, OR BOTH.

(B) EXCEPT AS PROVIDED IN SUBDIVISION (C), IF THE PERSON HAS 1 PRIOR CONVICTION FOR VIOLATING THIS ARTICLE, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 180 DAYS OR A FINE OF NOT MORE THAN $50,000.00, OR BOTH.

(C) IF THE PERSON HAS 2 OR MORE PRIOR CONVICTIONS FOR VIOLATING THIS ARTICLE, OR INTENTIONALLY VIOLATES THIS ARTICLE, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN $100,000.00, OR BOTH.

(2) SUBSECTION (1) DOES NOT PROHIBIT THE PERSON FROM BEING CHARGED WITH, CONVICTED OF, OR SENTENCED FOR ANY OTHER VIOLATION OF LAW COMMITTED BY THE PERSON WHILE VIOLATING THIS SECTION.

SEC. 8509. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY THAT HAS BEEN ISSUED A LICENSE UNDER THIS ARTICLE, OR ANY OWNER, OPERATOR, OFFICER, DIRECTOR, PARTNER, MEMBER, MANAGER, OR EMPLOYEE OF THE LICENSED FACILITY, IS NOT SUBJECT TO ARREST, PROSECUTION, OR PENALTY IN ANY MANNER, OR DENIED ANY RIGHT OR PRIVILEGE, INCLUDING, BUT NOT LIMITED TO, CIVIL PENALTY OR DISCIPLINARY ACTION BY A BUSINESS OR OCCUPATIONAL OR PROFESSIONAL LICENSING BOARD OR BUREAU, FOR THE CULTIVATION, DISTRIBUTION, AND SALE OF PHARMACEUTICAL-GRADE CANNABIS UNDER THIS ARTICLE FOR USE BY ELIGIBLE PATIENTS IN THE MANNER PRESCRIBED IN THIS ARTICLE.

SEC. 8511. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A LOCAL GOVERNMENTAL UNIT SHALL NOT ENACT OR ENFORCE AN ORDINANCE REGARDING PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES. A LOCAL GOVERNMENTAL UNIT MAY LIMIT THE NUMBER OF PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES THAT MAY OPERATE IN THE LOCAL GOVERNMENTAL UNIT AND MAY ENACT REASONABLE ZONING REGULATIONS APPLICABLE TO PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES BASED ON LOCAL GOVERNMENT ZONING, HEALTH, AND SAFETY LAWS FOR THE CULTIVATION, DISTRIBUTION, AND SALE OF PHARMACEUTICAL-GRADE CANNABIS.

Sec. 16169. (1) If an individual employed by or under contract to the department has reasonable cause to believe that a health professional may be impaired, the individual shall transmit the information to the committee either orally or in writing. Upon receipt of the information, the committee shall request the program consultant described in section 16168 to

determine whether or not the health professional may be impaired.

(2) If, based on the information received by the department under section 16168(2), the department determines that the health professional involved may be a threat to the public health, safety, or welfare and has violated this article, ~~or~~ article 7, **OR ARTICLE 8** or the rules promulgated under this article, ~~or~~ article 7, **OR ARTICLE 8,** the department may proceed under sections 16211 and 16231.

Sec. 16170a. (1) The identity of an individual submitting information to the committee or the department regarding the suspected impairment of a health professional is confidential.

(2) The identity of a health professional who participates in the health professional recovery program is confidential and is not subject to disclosure under discovery or subpoena or the freedom of information act, ~~Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws,~~ **1976 PA 442, MCL 15.231 TO 15.246,** unless the health professional fails to satisfactorily participate in and complete a treatment plan prescribed under the health professional recovery program or violates section 16170(3).

(3) If a health professional successfully participates in and completes a treatment plan prescribed under the health professional recovery program, as determined by the committee, the department shall destroy all records pertaining to the impairment of the health professional, including records pertaining to the health professional's participation in the treatment plan, upon the expiration of 5 years after the date of

the committee's determination. This subsection does not apply to records pertaining to a violation of this article, ~~or~~ article 7, **OR ARTICLE 8** or a rule promulgated under this article, ~~or~~ article 7**, OR ARTICLE 8**.

Sec. 16174. (1) An individual who is licensed or registered under this article shall meet all of the following requirements:

(a) Be 18 or more years of age.

(b) Be of good moral character.

(c) Have a specific education or experience in the health profession or in a health profession subfield or health profession specialty field of the health profession, or training equivalent, or both, as prescribed by this article or rules of a board necessary to promote safe and competent practice and informed consumer choice.

(d) Have a working knowledge of the English language as determined in accordance with minimum standards established for that purpose by the department.

(e) Pay the appropriate fees as prescribed in this article.

(2) In addition to the requirements of subsection (1), an applicant for licensure, registration, specialty certification, or a health profession specialty subfield license under this article shall meet all of the following requirements:

(a) Establish that disciplinary proceedings before a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country are not pending against the applicant.

(b) Establish that if sanctions have been imposed against the applicant by a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country based upon grounds that are substantially similar to those set forth in this article, ~~or~~ article 7**, OR ARTICLE 8** or the rules promulgated under this article, ~~or~~ article 7**, OR ARTICLE 8**, as determined by the board or task force to which the applicant applies, the sanctions are not in force at the time of application. This subdivision does not apply to an application for licensure that the board may grant under section 17011(4) or 17511(2).

(c) File with the board or task force a written, signed consent to the release of information regarding a disciplinary investigation involving the applicant conducted by a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country.

(3) Beginning October 1, 2008, an applicant for initial licensure or registration shall submit his or her fingerprints to the department of state police to have a criminal history check conducted and request that the department of state police forward his or her fingerprints to the federal bureau of investigation for a national criminal history check. The department of state police shall conduct a criminal history check and request the federal bureau of investigation to make a determination of the

existence of any national criminal history pertaining to the applicant. The department of state police shall provide the department with a written report of the criminal history check if the criminal history check contains any criminal history record information. The department of state police shall forward the results of the federal bureau of investigation determination to the department within 30 days after the request is made. The department shall notify the board and the applicant in writing of the type of crime disclosed on the federal bureau of investigation determination without disclosing the details of the crime. The department of state police may charge a reasonable fee to cover the cost of conducting the criminal history check. The criminal history record information obtained under this subsection shall be used only for the purpose of evaluating an applicant's qualifications for licensure or registration for which he or she has applied. A member of the board shall not disclose the report or its contents to any person who is not directly involved in evaluating the applicant's qualifications for licensure or registration. Information obtained under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this section or for law enforcement purposes.

(4) Before granting a license, registration, specialty certification, or a health profession specialty field license to an applicant, the board or task force to which the applicant applies may do 1 of the following:

(a) Make an independent inquiry into the applicant's compliance with the requirements described in subsection (2). If subsection (2)(b) applies to an application for licensure and a licensure or registration board or task force determines under subsection (2)(b) that sanctions have been imposed and are in force at the time of application, the board or task force shall not grant a license or registration or specialty certification or health profession specialty field license to the applicant.

(b) Require the applicant to secure from a national association or federation of state professional licensing boards certification of compliance with the requirements described in subsection (2). If an application is for licensure that the board may grant under section 17011(4) or 17511(2), the applicant is not required to secure the certification of compliance with respect to the requirements described in subsection (2)(b).

(5) If, after issuing a license, registration, specialty certification, or health profession specialty field license, a board or task force or the department determines that sanctions have been imposed against the licensee or registrant by a similar licensure or registration or specialty licensure or specialty certification board as described in subsection (2)(b), the disciplinary subcommittee may impose appropriate sanctions upon the licensee or registrant. The licensee or registrant may request a show cause hearing before a hearing examiner to demonstrate why the sanctions should not be imposed.

(6) An applicant for licensure, registration, specialty certification, or a health profession specialty field license who

is or has been licensed, registered, or certified in a health profession or specialty by another state or country shall disclose that fact on the application form.

Sec. 16192. (1) A licensee or registrant shall report to the department a change in name or mailing address not later than 30 days after the change occurs.

(2) The department may serve a notice of hearing or a complaint on an applicant, licensee, or registrant in an action or proceeding for a violation of this article**,** ~~or~~ article 7**, OR ARTICLE 8** or a rule promulgated under this article**,** ~~or~~ article 7**, OR ARTICLE 8** by regular mail and by certified mail, return receipt requested, to the applicant's, licensee's, or registrant's last known address, by serving the notice on the applicant, licensee, or registrant, or by making a reasonable attempt to serve the notice on the applicant, licensee, or registrant. For purposes of this subsection, if service is by mail, service is effective 3 days after the date of mailing, and nondelivery does not affect the validity of the service if the nondelivery was caused by the refusal of the applicant, licensee, or registrant to accept service.

(3) A license or registration is not transferable.

Sec. 16216. (1) The chair of each board or task force shall appoint 1 or more disciplinary subcommittees for that board or task force. A disciplinary subcommittee for a board or task force shall consist of 2 public members and 3 professional members from the board or task force. The chair of a board or task force shall not serve as a member of a disciplinary subcommittee.

(2) A final decision of the disciplinary subcommittee finding a violation of this article, ~~or~~ article 7**, OR ARTICLE 8** shall be by a majority vote of the members appointed and serving on the disciplinary subcommittee.

(3) A final decision of the disciplinary subcommittee imposing a sanction under this article, ~~or~~ article 7**, OR ARTICLE 8** or a final decision of the disciplinary subcommittee other than a final decision described in subsection (2) requires a majority vote of the members appointed and serving on the disciplinary subcommittee with an affirmative vote by at least 1 public member.

(4) The chairperson of each disciplinary subcommittee shall be a public member and shall be appointed by the chair of the board or task force.

Sec. 16221. The department may investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The department may hold hearings, administer oaths, and order the taking of relevant testimony and shall report its findings to the appropriate disciplinary subcommittee. The disciplinary subcommittee shall proceed under section 16226 if it finds that 1 or more of the following grounds exist:

(a) A violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, or any conduct, practice, or condition that impairs, or may impair, the ability to safely and skillfully

practice the health profession.

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

(*i*) Incompetence.

(*ii*) Subject to sections 16165 to 16170a, substance use disorder as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

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

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

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

(*vi*) Lack of good moral character.

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

(*viii*) Conviction of a violation of section 492a of the Michigan penal code, 1931 PA 328, MCL 750.492a. A certified copy of the court record is conclusive evidence of the conviction.

(*ix*) Conviction of a misdemeanor or felony involving fraud in obtaining or attempting to obtain fees related to the practice of

a health profession. A certified copy of the court record is conclusive evidence of the conviction.

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

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

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

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

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

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

(*ii*) Permitting a license or registration to be used by an unauthorized person.

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

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

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

(*i*) False or misleading advertising.

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

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

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

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

(*ii*) Betrayal of a professional confidence.

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

(*iv*) Either of the following:

(A) A requirement by a licensee other than a physician that an individual purchase or secure a drug, device, treatment, procedure, or service from another person, place, facility, or business in which the licensee has a financial interest.

(B) A referral by a physician for a designated health

service that violates 42 USC 1395nn or a regulation promulgated under that section. For purposes of this subdivision, 42 USC 1395nn and the regulations promulgated under that section as they exist on June 3, 2002 are incorporated by reference. A disciplinary subcommittee shall apply 42 USC 1395nn and the regulations promulgated under that section regardless of the source of payment for the designated health service referred and rendered. If 42 USC 1395nn or a regulation promulgated under that section is revised after June 3, 2002, the department shall officially take notice of the revision. Within 30 days after taking notice of the revision, the department shall decide whether or not the revision pertains to referral by physicians for designated health services and continues to protect the public from inappropriate referrals by physicians. If the department decides that the revision does both of those things, the department may promulgate rules to incorporate the revision by reference. If the department does promulgate rules to incorporate the revision by reference, the department shall not make any changes to the revision. As used in this sub-subparagraph, "designated health service" means that term as defined in 42 USC 1395nn and the regulations promulgated under that section and "physician" means that term as defined in sections 17001 and 17501.

(*v*) For a physician who makes referrals pursuant to 42 USC 1395nn or a regulation promulgated under that section, refusing to accept a reasonable proportion of patients eligible for Medicaid and refusing to accept payment from Medicaid or Medicare

as payment in full for a treatment, procedure, or service for which the physician refers the individual and in which the physician has a financial interest. A physician who owns all or part of a facility in which he or she provides surgical services is not subject to this subparagraph if a referred surgical procedure he or she performs in the facility is not reimbursed at a minimum of the appropriate Medicaid or Medicare outpatient fee schedule, including the combined technical and professional components.

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

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

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

(i) Failure to comply with a subpoena issued pursuant to this part, failure to respond to a complaint issued under this article**,** ~~or~~ article 7, **OR ARTICLE 8,** 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

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, 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).

Sec. 16222. (1) A licensee or registrant ~~having~~ **WHO HAS** knowledge that another licensee or registrant has committed a violation under section 16221**,** ~~or~~ article 7**, OR ARTICLE 8** or a rule promulgated under article 7 **OR ARTICLE 8** shall report the conduct and the name of the subject of the report to the department. Information obtained by the department under this subsection is confidential and is subject to sections 16238 and 16244. Failure of a licensee or registrant to make a report under this subsection does not give rise to a civil cause of action for damages against the licensee or registrant, but the licensee or registrant is subject to administrative action under sections 16221 and 16226. This subsection does not apply to a licensee or

registrant who obtains the knowledge of a violation while providing professional services to the licensee or registrant to whom the knowledge applies, who is serving on a duly constituted ethics or peer review committee of a professional association, or who is serving on a committee assigned a professional review function in a health facility or agency.

(2) Unless the licensee or registrant making ~~the~~ **A** report **UNDER SUBSECTION (1)** otherwise agrees in writing, the identity of the licensee or registrant making the report shall remain confidential unless disciplinary proceedings under this part are initiated against the subject of the report and the licensee or registrant making the report is required to testify in the proceedings.

(3) A licensee or registrant shall notify the department of a criminal conviction or a disciplinary licensing or registration action taken by another state against the licensee or registrant within 30 days after the date of the conviction or action. This subsection includes, but is not limited to, a disciplinary action that is stayed pending appeal.

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*), (b)(*iv*), (b)(*vi*), or (b)(*vii*)	Probation, limitation, denial, suspension, revocation, restitution, community service,

	or fine.
Subdivision (b)(*viii*)	Revocation or denial.
Subdivision (b)(*i*), (b)(*iii*), (b)(*v*), (b)(*ix*), (b)(*x*), (b)(*xi*), or (b)(*xii*)	Limitation, suspension, revocation, denial, probation, restitution, community service, or fine.
Subdivision (b)(*xiii*)	Probation, limitation, denial, suspension, revocation, restitution, community service, fine, or, subject to subsection (5), permanent revocation.
Subdivision (c)(*i*)	Denial, revocation, suspension, probation, limitation, community service, or fine.
Subdivision (c)(*ii*)	Denial, suspension, revocation, restitution, community service, or fine.
Subdivision (c)(*iii*)	Probation, denial, suspension, revocation, restitution, community service, or fine.
Subdivision (c)(*iv*) or (d)(*iii*)	Fine, probation, denial, suspension, revocation, community service, or restitution.

Subdivision (d)(*i*) or (d)(*ii*)	Reprimand, fine, probation, community service, denial, or restitution.
Subdivision (e)(*i*)	Reprimand, fine, probation, limitation, suspension, community service, denial, or restitution.
Subdivision (e)(*ii*) or (i)	Reprimand, probation, suspension, restitution, community service, denial, or fine.
Subdivision (e)(*iii*), (e)(*iv*), or (e)(*v*)	Reprimand, fine, probation, suspension, revocation, limitation, community service, denial, or restitution.
Subdivision (g)	Reprimand or fine.
Subdivision (h) or (s)	Reprimand, probation, denial, suspension, revocation, limitation, restitution, community service, or fine.
Subdivision (j)	Suspension or fine.
Subdivision (k), (p), or (r)	Reprimand or fine.

Subdivision (*l*)	Reprimand, denial, or limitation.
Subdivision (m) or (o)	Denial, revocation, restitution, probation, suspension, limitation, reprimand, or fine.
Subdivision (n)	Revocation or denial.
Subdivision (q)	Revocation.
Subdivision (t)	Revocation, fine, and restitution.

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

(4) A disciplinary subcommittee may require a licensee or

registrant or an applicant for licensure or registration who has violated this article, ~~or~~ article 7**, OR ARTICLE 8** or a rule promulgated under this article, ~~or~~ article 7**, OR ARTICLE 8** to satisfactorily complete an educational program, a training program, or a treatment program, a mental, physical, or professional competence examination, or a combination of those programs and examinations.

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

Sec. 16231. (1) A person or governmental entity ~~who~~ **THAT** believes that a violation of this article, ~~or~~ article 7**, OR ARTICLE 8** or a rule promulgated under this article, ~~or~~ article 7**, OR ARTICLE 8** exists may make an allegation of that fact to the department in writing.

(2) If, upon reviewing an application or an allegation or a licensee's file under section 16211(4), the department determines there is a reasonable basis to believe the existence of a violation of this article, ~~or~~ article 7**, OR ARTICLE 8** or a rule promulgated under this article, ~~or~~ article 7, **OR ARTICLE 8,** the department, with the authorization of the chair of the appropriate board or task force or his or her designee, shall investigate. If the chair or his or her designee fails to grant or deny authorization within 7 days after receipt of a request for authorization, the department shall investigate.

(3) Upon the receipt of information reported pursuant to section 16243(2) that indicates 3 or more malpractice settlements, awards, or judgments against a licensee in a period of 5 consecutive years or 1 or more malpractice settlements, awards, or judgments against a licensee totaling more than $200,000.00 in a period of 5 consecutive years, whether or not a judgment or award is stayed pending appeal, the department shall investigate.

(4) At any time during an investigation or following the issuance of a complaint, the department may schedule a compliance conference ~~pursuant to~~ **UNDER** section 92 of the administrative procedures act of 1969, MCL 24.292. The conference may include the applicant, licensee, registrant, or individual, the applicant's, licensee's, registrant's, or individual's attorney, 1 member of the department's staff, and any other individuals approved by the department. One member of the appropriate board or task force who is not a member of the disciplinary subcommittee with jurisdiction over the matter may attend the conference and provide such assistance as needed. At the compliance conference, the department shall attempt to reach agreement. If an agreement is reached, the department shall submit a written statement outlining the terms of the agreement, or a stipulation and final order, if applicable, or a request for dismissal to the appropriate disciplinary subcommittee for approval. If the agreement or stipulation and final order or request for dismissal is rejected by the disciplinary subcommittee, or if no agreement is reached, a hearing before a

hearings examiner shall be scheduled. A party shall not make a transcript of the compliance conference. All records and documents of a compliance conference held before a complaint is issued are subject to section 16238.

(5) Within 90 days after an investigation is initiated under subsection (2) or (3), the department shall do 1 or more of the following:

(a) Issue a formal complaint.

(b) Conduct a compliance conference under subsection (4).

(c) Issue a summary suspension.

(d) Issue a cease and desist order.

(e) Dismiss the complaint.

(f) Place in the complaint file not more than 1 written extension of not more than 30 days to take action under this subsection.

(6) Unless the person submitting the allegation under subsection (1) otherwise agrees in writing, the department shall keep the identity of a person submitting the allegation confidential until disciplinary proceedings under this part are initiated against the subject of the allegation and the person making the allegation is required to testify in the proceedings.

(7) The department shall serve a complaint ~~pursuant to~~ **UNDER** section 16192. The department shall include in the complaint a notice that the applicant, licensee, registrant, or individual who is the subject of the complaint has 30 days from the date of receipt to respond in writing to the complaint.

(8) The department shall treat the failure of the applicant,

licensee, registrant, or individual to respond to the complaint within the 30-day period set forth in subsection (7) as an admission of the allegations contained in the complaint. The department shall notify the appropriate disciplinary subcommittee of the individual's failure to respond and shall forward a copy of the complaint to that disciplinary subcommittee. The disciplinary subcommittee may then impose an appropriate sanction under this article, ~~or~~ article 7**, OR ARTICLE 8**.

Sec. 16231a. (1) If an agreement is not reached at a compliance conference held under section 16231(4), or if an agreement is reached but is rejected by a disciplinary subcommittee and the parties do not reach a new agreement, the department shall hold a hearing before a hearings examiner employed by or under contract to the department. If an agreement is reached but is rejected by the disciplinary subcommittee, the department shall not hold another compliance conference, but may continue to try and reach a new agreement. The hearings examiner shall conduct the hearing within 60 days after the compliance conference at which an agreement is not reached or after the agreement is rejected by the disciplinary subcommittee, unless a new agreement is reached and approved by the disciplinary subcommittee. One member of the appropriate board or task force who is not a member of the disciplinary subcommittee with jurisdiction over the matter may attend the hearing and provide such assistance as needed.

(2) The hearings examiner shall determine if there are grounds for disciplinary action under section 16221 or if the

applicant, licensee, or registrant has violated this article, ~~or~~ article 7**, OR ARTICLE 8** or the rules promulgated under this article, ~~or~~ article 7**, OR ARTICLE 8**. The hearings examiner shall prepare recommended findings of fact and conclusions of law for transmittal to the appropriate disciplinary subcommittee. The hearings examiner shall not recommend or impose penalties.

(3) The applicant, licensee, or registrant who is the subject of the complaint or the department of attorney general may request and be granted not more than 1 continuance by the hearings examiner for good cause shown.

(4) The applicant, licensee, or registrant may be represented at the hearing by legal counsel. The department shall be represented at the hearing by an assistant attorney general from the department of attorney general. The assistant attorney general shall not be the same individual assigned by the department of attorney general to provide legal counsel to the board or the special assistant attorney general described in section 16237.

(5) Unless a continuance has been granted under subsection (3), failure of an applicant, licensee, or registrant to appear or be represented at a scheduled hearing shall be treated by the hearings examiner as a default and an admission of the allegations contained in the complaint. The hearings examiner shall notify the appropriate disciplinary subcommittee of the individual's failure to appear and forward a copy of the complaint and any other relevant records to the disciplinary subcommittee. The disciplinary subcommittee may then impose an

appropriate sanction under **ANY COMBINATION OF** this article, ~~or~~ article 7, or ~~both.~~**ARTICLE 8.**

Sec. 16232. (1) The department shall provide an opportunity for a hearing in connection with the denial, reclassification, limitation, reinstatement, suspension, or revocation of a license or a proceeding to reprimand, fine, order community service or restitution, or place a licensee on probation.

(2) The department shall provide an opportunity for a hearing in connection with the denial, limitation, suspension, revocation, or reinstatement of a registration or a proceeding to reprimand, fine, order community service or restitution, or place a registrant on probation.

(3) A disciplinary subcommittee shall meet within 60 days after receipt of the recommended findings of fact and conclusions of law from a hearings examiner to impose a penalty.

(4) Only the department shall promulgate rules governing hearings under this article, ~~or~~ article 7**, ARTICLE 8** and related preliminary proceedings.

Sec. 16233. (1) The department may conduct an investigation necessary to administer and enforce this article. Investigations may include written, oral, or practical tests of a licensee's or registrant's competency. The department may establish a special paralegal unit to assist the department.

(2) The department may order an individual to cease and desist from a violation of this article, ~~or~~ article 7**, OR ARTICLE 8** or a rule promulgated under this article, ~~or~~ article 7**, OR ARTICLE 8**.

(3) An individual ordered to cease and desist under subsection (2) is entitled to a hearing before a hearings examiner if the individual files a written request for a hearing within 30 days after the effective date of the cease and desist order. The department shall subsequently present the notice, if any, of the individual's failure to respond to a complaint, or attend or be represented at a hearing as described in sections 16231 and 16231a, or the recommended findings of fact and conclusions of law to the appropriate disciplinary subcommittee to determine whether the order is to remain in effect or be dissolved.

(4) Upon a violation of a cease and desist order issued under subsection (2), the department of attorney general may apply in the circuit court to restrain and enjoin, temporarily or permanently, an individual from further violating the cease and desist order.

(5) After consultation with the chair of the appropriate board or task force or his or her designee, the department may summarily suspend a license or registration if the public health, safety, or welfare requires emergency action in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292. If a licensee or registrant is convicted of a felony; a misdemeanor punishable by imprisonment for a maximum term of 2 years; or a misdemeanor involving the illegal delivery, possession, or use of a controlled substance, the department shall find that the public health, safety, or welfare requires emergency action and, in accordance with section 92 of the

administrative procedures act of 1969, MCL 24.292, shall summarily suspend the licensee's license or the registrant's registration. If a licensee or registrant is convicted of a misdemeanor involving the illegal delivery, possession, or use of alcohol that adversely affects the licensee's ability to practice in a safe and competent manner, the department may find that the public health, safety, or welfare requires emergency action and, in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292, may summarily suspend the licensee's license or the registrant's registration.

Sec. 16237. (1) In imposing a penalty under section 16232(3), a disciplinary subcommittee shall review the recommended findings of fact and conclusions of law of the hearings examiner.

(2) The department of attorney general may assign an independent special assistant attorney general who is under contract to the department of attorney general and is not a member of the state classified civil service to advise the disciplinary subcommittees on matters of law and provide other legal assistance as necessary. A special assistant attorney general assigned to the disciplinary subcommittees under this subsection shall not be the same individual who represented the department before a hearings examiner under section 16231a(4).

(3) In reviewing the recommended findings of fact and conclusions of law of the hearings examiner and the record of the hearing, a disciplinary subcommittee may request the hearings examiner to take additional testimony or evidence on a specific

issue or may revise the recommended findings of fact and conclusions of law as determined necessary by the disciplinary subcommittee, or both. A disciplinary subcommittee shall not conduct its own investigation or take its own additional testimony or evidence under this subsection.

(4) If a disciplinary subcommittee finds that a preponderance of the evidence supports the recommended findings of fact and conclusions of law of the hearings examiner indicating that grounds exist for disciplinary action, the disciplinary subcommittee shall impose an appropriate sanction under **ANY COMBINATION OF** this article**,** ~~or~~ article 7, or ~~both.~~ **ARTICLE 8.** If the disciplinary subcommittee finds that a preponderance of the evidence does not support the findings of fact and conclusions of law of the hearings examiner indicating that grounds exist for disciplinary action, the disciplinary subcommittee shall dismiss the complaint. A disciplinary subcommittee shall report final action taken by it in writing to the appropriate board or task force.

(5) The compliance conference, the hearing before the hearings examiner, and final disciplinary subcommittee action shall be completed within 1 year after the department initiates an investigation under section 16231(2) or (3). The department shall note in its annual report any exceptions to the 1-year requirement.

(6) A final decision of a disciplinary subcommittee rendered after the effective date of the amendatory act that added this section but before January 1, 1995 may be appealed only in the

manner provided in sections 103 to 106 of the administrative procedures act of 1969, ~~being sections 24.303 to 24.306 of the Michigan Compiled Laws.~~ **1969 PA 306, MCL 24.301 TO 24.306.** A final decision of a disciplinary subcommittee rendered on or after January 1, 1995 may be appealed only to the court of appeals. An appeal filed under this subsection is by right.

Sec. 16241. (1) After administrative disciplinary action is final, the department ~~of commerce~~ shall publish a list of the names and addresses of disciplined individuals. The department of commerce shall indicate on the list that a final administrative disciplinary action is subject to judicial review. The department ~~of commerce~~ shall report disciplinary action to the department of public health, the ~~commissioner~~ **DIRECTOR** of **THE DEPARTMENT OF** insurance **AND FINANCIAL SERVICES**, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association.

(2) Once each calendar year, the department ~~of commerce~~ shall transmit to the library of Michigan sufficient copies of a compilation of the lists required under subsection (1) for the immediately preceding 3 calendar years. The library of Michigan shall distribute the compilation to each depository library in ~~the~~ **THIS** state. The department ~~of commerce also~~ shall **ALSO** transmit the compilation to each county clerk in ~~the~~ **THIS** state once each calendar year.

(3) The department of ~~public~~ **COMMUNITY** health shall report the disciplinary actions to appropriate licensed health facilities and agencies. The ~~commissioner~~ **DIRECTOR OF THE**

DEPARTMENT of insurance **AND FINANCIAL SERVICES** shall report the disciplinary actions received from the department ~~of commerce~~ to insurance carriers providing professional liability insurance.

(4) In case of a summary suspension of a license under section 16233(5), the department ~~of commerce~~ shall report the name and address of the individual whose license has been suspended to the department of ~~public~~ **COMMUNITY** health, the ~~commissioner~~ **DIRECTOR OF THE DEPARTMENT** of insurance **AND FINANCIAL SERVICES**, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association.

(5) A licensee or registrant whose license or registration is revoked or suspended under this article shall give notice of the revocation or suspension to each patient who contacts the licensee or registrant for professional services during the term of the revocation or suspension. The notice required under this subsection may be given orally and shall be given at the time of contact.

(6) A licensee or registrant whose license or registration is revoked or is suspended for more than 60 days under this article shall notify in writing each patient or client to whom the licensee or registrant rendered professional services in the licensee's or registrant's private practice during the 120 days immediately preceding the date of the final order imposing the revocation or suspension and to each individual who is already scheduled for professional services during the first 120 days after the date of the final order imposing the revocation or

suspension. The notice shall be on a form provided by the licensee's or registrant's board or task force and shall state, at a minimum, the name, address, and license or registration number of the licensee or registrant, the fact that his or her license or registration has been revoked or suspended, the effective date of the revocation or suspension, and the term of the revocation or suspension. Each board or task force shall develop a notice form that meets at least the minimum requirements of this subsection. The licensee or registrant shall send the notice to each patient or client to whom the licensee or registrant rendered professional services in the licensee's or registrant's private practice during the 120 days immediately preceding the date of the final order imposing the revocation or suspension within 30 days after the date of the final order imposing the revocation or suspension and shall simultaneously transmit a copy of the notice to the department. The licensee or registrant orally shall notify each individual who contacts the licensee or registrant for professional services during the first 120 days after the date of the final order imposing the revocation or suspension. The licensee or registrant shall also provide a copy of the notice within 10 days after the date of the final order imposing the revocation or suspension to his or her employer, if any, and to each hospital, if any, in which the licensee or registrant is admitted to practice.

(7) A licensee or registrant who is reprimanded, fined, placed on probation, or ordered to pay restitution under this article or an applicant whose application for licensure or

registration is denied under this article shall notify his or her employer, if any, and each hospital, if any, in which he or she is admitted to practice, in the same manner as provided for notice of revocation or suspension to an employer or hospital under subsection (6), within 10 days after the date of the final order imposing the sanction.

(8) The department ~~of commerce~~ **SHALL** annually ~~shall~~ report to the legislature and to each board and task force on disciplinary actions taken under this article**,** ~~and~~ article 7**, AND ARTICLE 8**. The report shall contain, at a minimum, all of the following information:

(a) Investigations conducted, complaints issued, and settlements reached by the department**,** ~~of commerce,~~ separated out by type of complaint and health profession.

(b) Investigations and complaints closed or dismissed.

(c) Actions taken by each disciplinary subcommittee, separated out by type of complaint, health profession, and final order issued.

(d) Recommendations by boards and task forces.

(e) The number of extensions and delays granted by the department that were in excess of the time limits required under this article for each phase of the disciplinary process, and the types of cases for which the extensions and delays were granted.

~~(9) Within 2 years after the effective date of the amendatory act that added this subsection, the department of commerce shall submit a public report to the legislature on the effectiveness of the amendatory act that added this subsection.~~

~~The report shall include a review and evaluation of the disciplinary process and the reporting requirements of this article and article 17 and recommended administrative or statutory changes, if any.~~

Sec. 16245. (1) Except as otherwise provided in this section, an individual whose license is limited, suspended, or revoked under this part may apply to his or her board or task force for a reinstatement of a revoked or suspended license or reclassification of a limited license pursuant to section 16247 or 16249.

(2) Except as otherwise provided in this section, an individual whose registration is suspended or revoked under this part may apply to his or her board for a reinstatement of a suspended or revoked registration pursuant to section 16248.

(3) A board or task force shall reinstate a license or registration suspended for grounds stated in section 16221(j) upon payment of the installment.

(4) Except as otherwise provided in this subsection, in case of a revoked license or registration, an applicant shall not apply for reinstatement before the expiration of 3 years after the effective date of the revocation. In the case of a license or registration that was revoked for a violation of section 16221(b)(*vii*) or (*xiii*), a violation of section 16221(c)(*iv*) consisting of a felony conviction, any other felony conviction involving a controlled substance, or a violation of section 16221(q), an applicant shall not apply for reinstatement before the expiration of 5 years after the effective date of the

revocation. In the case of a license or registration that was permanently revoked for a violation of section 16221(b)(*xiii*), the former licensee or registrant is ineligible for reinstatement. The department shall return an application for reinstatement received before the expiration of the applicable time period under this subsection or if the applicant is ineligible for reinstatement under this subsection.

(5) The department shall provide an opportunity for a hearing before final rejection of an application for reinstatement unless the application is returned because the applicant is ineligible for reinstatement under subsection (4).

(6) Based upon the recommendation of the disciplinary subcommittee for each health profession, the department shall adopt guidelines to establish specific criteria to be met by an applicant for reinstatement under this article**,** ~~or~~ article 7**, OR ARTICLE 8**. The criteria may include corrective measures or remedial education as a condition of reinstatement. If a board or task force, in reinstating a license or registration, deviates from the guidelines adopted under this subsection, the board or task force shall state the reason for the deviation on the record.

(7) An individual who seeks reinstatement or reclassification of a license or registration pursuant to this section shall pay the application processing fee as a reinstatement or reclassification fee. If approved for reinstatement or reclassification, the individual shall pay the per year license or registration fee for the applicable license

or registration period.

(8) An individual who seeks reinstatement of a revoked or suspended license or reclassification of a limited license ~~pursuant to~~ **UNDER** this section shall have a criminal history check conducted in accordance with section 16174 and submit a copy of the results of the criminal history check to the board with his or her application for reinstatement or reclassification.

Sec. 16315. (1) The health professions regulatory fund is established in the state treasury. Except as otherwise provided in this section, the state treasurer shall credit the fees collected under sections 16319 to 16349 to the health professions regulatory fund. The money in the health professions regulatory fund shall be expended only as provided in subsection (5).

(2) The state treasurer shall direct the investment of the health professions regulatory fund. Interest and earnings from health professions regulatory fund investment shall be credited to the health professions regulatory fund.

(3) The unencumbered balance in the health professions regulatory fund at the close of the fiscal year shall remain in the health professions regulatory fund and shall not revert to the general fund.

(4) The health professions regulatory fund may receive gifts and devises and other money as provided by law.

(5) The department ~~of community health~~ shall use the health professions regulatory fund to carry out its powers and duties under this article, ~~and~~ article 7**, AND ARTICLE 8,** including, but

not limited to, reimbursing the department of attorney general for the reasonable cost of services provided to the department ~~of community health~~ under this article, ~~and~~ article 7**, AND ARTICLE 8**. ~~For the fiscal year ending September 30, 2007 only, subject to appropriations by the legislature and approval by the governor, the department of community health may also use the health professions regulatory fund to support health information technology initiatives.~~

(6) The nurse professional fund is established in the state treasury. Of the money that is attributable to per-year license fees collected under section 16327, the state treasurer shall credit $8.00 of each individual annual license fee collected to the nurse professional fund. The money in the nurse professional fund shall be expended only as provided in subsection (9).

(7) The state treasurer shall direct the investment of the nurse professional fund, and shall credit interest and earnings from the investment to the nurse professional fund. The nurse professional fund may receive gifts and devises and other money as provided by law.

(8) The unencumbered balance in the nurse professional fund at the close of the fiscal year shall remain in the nurse professional fund and shall not revert to the general fund.

(9) The department of community health shall use the nurse professional fund each fiscal year only as follows:

(a) To promote safe patient care in all nursing practice environments.

(b) To advance the safe practice of the nursing profession.

(c) To assure a continuous supply of high-quality direct care nurses, nursing faculty, and nursing education programs.

(d) To operate a nursing scholarship program.

(10) The pain management education and controlled substances electronic monitoring and antidiversion fund is established in the state treasury.

(11) The state treasurer shall direct the investment of the pain management education and controlled substances electronic monitoring and antidiversion fund. Interest and earnings from investment of the pain management education and controlled substances electronic monitoring and antidiversion fund shall be credited to the pain management education and controlled substances electronic monitoring and antidiversion fund.

(12) The unencumbered balance in the pain management education and controlled substances electronic monitoring and antidiversion fund at the close of the fiscal year shall remain in the pain management education and controlled substances electronic monitoring and antidiversion fund and shall not revert to the general fund. The pain management education and controlled substances electronic monitoring and antidiversion fund may receive gifts and devises and other money as provided by law. Twenty dollars of the license fee received by the department ~~of community health~~ under section 16319 shall be deposited with the state treasurer to the credit of the pain management education and controlled substances electronic monitoring and antidiversion fund. The department shall use the pain management education and controlled substances electronic monitoring and antidiversion

fund only in connection with programs relating to pain management education for health professionals, preventing the diversion of controlled substances, and development and maintenance of the electronic monitoring system for controlled substances data required by section 7333a.

Sec. 17754. (1) Except as otherwise provided under article 7**, ARTICLE 8,** and the federal act, a prescription may be transmitted electronically ~~as long as~~ **IF** the prescription is transmitted in compliance with the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, by a prescriber or his or her agent and the data are not altered or modified in the transmission process. The electronically transmitted prescription shall include all of the following information:

(a) The name, address, and telephone number of the prescriber.

(b) The full name of the patient for whom the prescription is issued.

(c) An electronic signature or other identifier that specifically identifies and authenticates the prescriber or his or her agent.

(d) The time and date of the transmission.

(e) The identity of the pharmacy intended to receive the transmission.

(f) Any other information required by the federal act or state law.

(2) The electronic equipment or system utilized in the transmission and communication of prescriptions shall provide adequate confidentiality safeguards and be maintained to protect patient confidentiality as required under any applicable federal and state law and to ensure against unauthorized access. The electronic transmission of a prescription shall be communicated in a retrievable, recognizable form acceptable to the intended recipient. The electronic form utilized in the transmission of a prescription shall not include "dispense as written" or "d.a.w." as the default setting.

(3) ~~Prior to~~ **BEFORE** dispensing a prescription that is electronically transmitted, the pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the transmitted prescription.

(4) An electronically transmitted prescription that meets the requirements of this section is the original prescription.

Sec. 17768. (1) In a manner consistent with part 161, the disciplinary subcommittee may fine, reprimand, or place on probation, a person licensed under this part, or deny, limit, suspend, or revoke a person's license or order restitution or community service for a violation of this part or rules promulgated under this part.

(2) In addition to the grounds set forth in subsection (1), and in a manner consistent with part 161, the board may fine, reprimand, or place on probation a person licensed under this part, or deny, limit, suspend, or revoke a license issued under this part or order restitution or community service if the board

finds that any of the following categories apply to an applicant or a partner, officer, or member of the board of directors of a pharmacy, manufacturer, or wholesale distributor licensed under this part or a stockholder of a pharmacy, manufacturer, or wholesale distributor which is a privately held corporation licensed under this part:

(a) The applicant or other person described in this subsection lacks good moral character.

(b) Subject to subsection (3), the applicant or other person described in this subsection has been convicted of a misdemeanor or a felony under a state or federal law relating to a controlled substance or the practice of pharmacy.

(c) The applicant or other person described in this subsection has furnished false or fraudulent material information or has knowingly omitted material information in an application filed under this part.

(d) The applicant or other person described in this subsection has previously maintained a financial interest in a pharmacy, manufacturer, or wholesale distributor which has been denied a license or federal registration, has had its license or federal registration limited, suspended, or revoked, or been subject to any other criminal, civil, or administrative penalty.

(e) The applicant or other person described in this subsection is not in compliance with article 7 **OR ARTICLE 8** or the rules promulgated under article 7 **OR ARTICLE 8**.

(3) Except for a conviction for a misdemeanor under section ~~7404 (2)(d)~~ **7404(2)(D)** or a local ordinance that is substantially

similar to section ~~7404 (2)(d),~~ **7404(2)(D),** the reference to a misdemeanor in subsection (2)(b) applies only to a conviction for a misdemeanor that is directly related to the manufacture, delivery, possession, possession with intent to manufacture or deliver, use, distribution, prescription, or dispensing of a controlled substance. Subsection (2)(b) does not apply to a conviction for a misdemeanor based upon an unintentional error or omission involving a clerical or record-keeping function.

Sec. 17775. (1) This section and section 17776 shall be known and may be referred to as the "program for utilization of unused prescription drugs".

(2) As used in this section and section 17776:

(a) "Board" means the Michigan board of pharmacy created under section 17721.

(b) "Cancer drug" means that term as defined in section 17780.

(c) "Charitable clinic" means a charitable nonprofit corporation or facility that meets all of the following requirements:

(*i*) Is organized as a not-for-profit corporation pursuant to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(*ii*) Holds a valid exemption from federal income taxation issued ~~pursuant to~~ **UNDER** section 501(a) of the internal revenue code **OF 1986**, 26 USC 501.

(*iii*) Is listed as an exempt organization under section 501(c) of the internal revenue code **OF 1986**, 26 USC 501.

(*iv*) Is organized under or operated as a part of a health facility or agency licensed under article 17.

(*v*) Provides on an outpatient basis for a period of less than 24 consecutive hours to persons not residing or confined at the facility advice, counseling, diagnosis, treatment, surgery, care, or services relating to the preservation or maintenance of health.

(*vi*) Has a licensed pharmacy.

(d) "Eligible facility" means a medical institution as that term is defined in R 338.486 of the Michigan administrative code.

(e) "Eligible participant" means an individual who meets all of the following requirements:

(*i*) Is a resident of this state.

(*ii*) Is eligible to receive medicaid or medicare or has no health insurance and otherwise lacks reasonable means to purchase prescription drugs, as prescribed in rules promulgated under this section.

(f) "Health professional" means any of the following individuals licensed and authorized to prescribe and dispense drugs or to provide medical, dental, or other health-related diagnoses, care, or treatment within the scope of his or her professional license:

(*i*) A physician licensed to practice medicine or osteopathic medicine and surgery under part 170 or 175.

(*ii*) A physician's assistant licensed under part 170, 175, or 180.

(*iii*) A dentist licensed under part 166.

(*iv*) An optometrist licensed under part 174.

(*v*) A pharmacist licensed under this part.

(*vi*) A podiatrist licensed under part 180.

(g) "Program" means the statewide unused prescription drug repository and distribution program known as the program for utilization of unused prescription drugs that is established under this section.

(3) The board shall establish, implement, and administer a statewide unused prescription drug repository and distribution program consistent with public health and safety through which unused or donated prescription drugs, other than controlled substances, may be transferred from an eligible facility or manufacturer to a pharmacy or a charitable clinic that elects to participate in the program. The program is created to dispense unused or donated prescription drugs, other than controlled substances, to eligible participants and to provide for the destruction and disposal of prescription drugs or other medications that are ineligible for dispensing under the program.

(4) Participation in the program by an eligible facility, manufacturer, pharmacy, or charitable clinic is voluntary. Nothing in this section or section 17776 requires any eligible facility, manufacturer, pharmacy, or charitable clinic to participate in the program.

(5) Pharmacies, health professionals, and charitable clinics that participate in the program shall use the following criteria in accepting unused or donated prescription drugs from eligible facilities or manufacturers for use in the program:

(a) Only prescription drugs in their original sealed, tamper-evident, and unopened unit dose packaging may be accepted for dispensing. However, prescription drugs packaged in single-unit dose packaging may be accepted for dispensing even if the outside packaging is open as long as the single-unit dose packaging is unopened.

(b) The following shall not be accepted for dispensing:

(*i*) Expired prescription drugs.

(*ii*) Controlled substances as defined in article 7 **OR ARTICLE 8** or by federal law.

(*iii*) Drugs that have been held outside of a health professional's control where sanitation and security cannot be assured.

(*iv*) Drugs that can only be dispensed to a patient registered with the drug's manufacturer under federal food and drug administration requirements.

(c) A prescription drug shall not be accepted for dispensing if the person accepting the drug has reason to believe that the drug is adulterated.

(d) Subject to the limitations prescribed in this subsection, unused or donated prescription drugs dispensed for purposes of a medical assistance program or drug product donation program may be accepted for dispensing under the program.

(e) Any additional criteria established in rules promulgated under this section.

(6) A pharmacy or charitable clinic that meets the eligibility requirements for participation in the program and any

rules promulgated under this section may do any of the following:

(a) Dispense prescription drugs accepted under the program to eligible participants.

(b) If established by rule under this section, charge eligible participants who receive prescription drugs under the program a handling fee for the service.

(7) A pharmacy or charitable clinic that participates in the program and accepts prescription drugs for the program shall do all of the following:

(a) Comply with all applicable federal laws and regulations and state laws and rules related to the storage and distribution of harmful drugs.

(b) Inspect all accepted prescription drugs before dispensing the prescription drugs to determine that the drugs are not adulterated.

(c) Dispense prescription drugs only pursuant to a prescription issued by a health professional.

(8) A pharmacy, health professional, or charitable clinic that accepts prescription drugs under the program shall not resell the prescription drugs. Receipt of a fee from an eligible participant, if established in rules promulgated under this section, or reimbursement from a governmental agency to a charitable clinic does not constitute resale of prescription drugs under this subsection.

(9) For purposes of the lawful donation, acceptance, or dispensing of prescription drugs under the program, the following persons that are in compliance with the program, this section and

section 17776, and any rules promulgated under this section and in the absence of bad faith or gross negligence are not subject to criminal or civil liability for injury other than death, or loss to person or property, or professional disciplinary action:

(a) The board.

(b) The department.

(c) An eligible facility or manufacturer that donates prescription drugs to the program.

(d) A manufacturer or its representative that directly donates prescription drugs in professional samples to a charitable clinic under the program.

(e) A pharmacy, charitable clinic, or health professional that accepts or dispenses prescription drugs for the program.

(f) A pharmacy or charitable clinic that employs a health professional who accepts prescription drugs for the program and who may legally dispense prescription drugs under this part.

(10) A manufacturer is not, in the absence of bad faith, subject to criminal prosecution or liability in tort or other civil action for injury, death, or loss to person or property for matters related to the donation, acceptance, or dispensing of a prescription drug manufactured by the manufacturer that is donated by any person under the program, including, but not limited to, liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

(11) Subject to subsection (12), the department, in consultation with the board, shall promulgate rules under the

administrative procedures act of 1969 and establish procedures necessary to establish, implement, and administer the program. The board shall provide technical assistance to eligible facilities, manufacturers, pharmacies, and charitable clinics that participate in the program.

(12) The department, in consultation with the board, shall promulgate emergency rules under the administrative procedures act of 1969 on or before ~~the expiration of 6 months after the effective date of this section~~ **SEPTEMBER 28, 2013** to establish, implement, and administer the program. The department, in consultation with the board, shall promulgate permanent rules ~~pursuant to~~ **UNDER** the administrative procedures act of 1969 as soon as practical after emergency rules have been promulgated under this subsection. The department and the board shall include all of the following in rules promulgated under this section:

(a) Eligibility criteria for pharmacies and charitable clinics authorized to accept and dispense prescription drugs for the program.

(b) Eligibility criteria for eligible participants.

(c) ~~Establishment of a~~ **A** list of prescription drugs that are not eligible for acceptance and dispensing under the program.

(d) Standards and procedures for transfer, transportation, acceptance, safe storage, security, and dispensing of prescription drugs.

(e) A process for seeking input from the department of human services and the department of community health in establishing provisions that affect eligible facilities.

(f) A process for seeking input from the department of human services and the department of community health in establishing provisions that affect mental health and substance abuse clients.

(g) Standards and procedures for inspecting accepted prescription drugs to ensure that the prescription drugs meet the requirements of the program and to ensure that, in the professional judgment of the pharmacist, the prescription drugs meet all federal and state standards for product integrity.

(h) Procedures for the destruction and environmentally sound disposal of prescription drugs or other medications that are accepted and that are ineligible for dispensing under the program.

(i) Procedures for verifying whether the charitable clinic, pharmacy, pharmacist, or other health professionals participating in the program are licensed and in good standing with the applicable licensing board.

(j) ~~Establishment of standards~~ **STANDARDS** for acceptance of unused or donated prescription drugs from eligible facilities.

(k) ~~Establishment of standards~~ **STANDARDS** for the acceptance by a pharmacy, health professional, or charitable clinic that participates in the program from any person of a prescription drug or any other medication that is ineligible for dispensing under the program for destruction and disposal.

(*l*) Any other standards and procedures the department, in consultation with the board, considers appropriate or necessary to establish, implement, and administer the program.

(13) Pursuant to the rules promulgated and standards and

procedures established for the program under this section, a resident of an eligible facility or the representative or guardian of a resident of an eligible facility may donate unused prescription drugs for dispensing to eligible participants under the program.

(14) Pursuant to rules promulgated and standards and procedures established for the program under this section, a person may deliver to a pharmacy, health professional, or charitable clinic that participates in the program a prescription drug or any other medication that is ineligible for dispensing under the program for destruction and disposal.

(15) This section and section 17776 do not impair or supersede the provisions regarding the cancer drug repository program established in section 17780. If any provision of this section or section 17776 conflicts with a provision of section 17780 with regard to a cancer drug, section 17780 controls.

Sec. 20176a. (1) A health facility or agency shall not discharge or discipline, threaten to discharge or discipline, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee or an individual acting on behalf of the employee does either or both of the following:

(a) In good faith reports or intends to report, verbally or in writing, the malpractice of a health professional or a violation of this article, article 7, **ARTICLE 8,** or article 15 or a rule promulgated under this article, article 7, **ARTICLE 8,** or

article 15.

(b) Acts as an expert witness in a civil action involving medical malpractice or in an administrative action.

(2) In addition to the sanctions set forth in section 20165, a health facility or agency that violates subsection (1) is subject to an administrative fine of not more than $10,000.00 for each violation.

Enacting section 1. Sections 7335 and 7336 of the public health code, 1978 PA 368, MCL 333.7335 and 333.7336, are repealed.