

HOUSE BILL NO. 5086

June 22, 2021, Introduced by Reps. Allor, Beeler, Brann, Bellino, Rendon, Slagh, Steven Johnson, Fink, Bezotte, Hoitenga, Roth, Yaroach, Borton, Griffin, Hornberger, Posthumus, Markkanen, Damoose and LaFave and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16221, 16299, 17015, and 17515 (MCL 333.16221, 333.16299, 333.17015, and 333.17515), section 16221 as amended by 2020 PA 232, section 16299 as amended by 2020 PA 375, and sections 17015 and 17515 as amended by 2012 PA 499, and by adding sections 17015b, 17019, 17519, 20187, and 21416.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16221. Subject to section 16221b, the department shall

1 investigate any allegation that 1 or more of the grounds for
2 disciplinary subcommittee action under this section exist, and may
3 investigate activities related to the practice of a health
4 profession by a licensee, a registrant, or an applicant for
5 licensure or registration. The department may hold hearings,
6 administer oaths, and order the taking of relevant testimony. After
7 its investigation, the department shall provide a copy of the
8 administrative complaint to the appropriate disciplinary
9 subcommittee. The disciplinary subcommittee shall proceed under
10 section 16226 if it finds that 1 or more of the following grounds
11 exist:

12 (a) Except as otherwise specifically provided in this section,
13 a violation of general duty, consisting of negligence or failure to
14 exercise due care, including negligent delegation to or supervision
15 of employees or other individuals, whether or not injury results,
16 or any conduct, practice, or condition that impairs, or may impair,
17 the ability to safely and skillfully engage in the practice of the
18 health profession.

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

21 (i) Incompetence.

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

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

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

1 (v) Conviction of a misdemeanor punishable by imprisonment for
2 a maximum term of 2 years; conviction of a misdemeanor involving
3 the illegal delivery, possession, or use of a controlled substance;
4 or conviction of any felony other than a felony listed or described
5 in another subparagraph of this subdivision. A certified copy of
6 the court record is conclusive evidence of the conviction.

7 (vi) Lack of good moral character.

8 (vii) Conviction of a criminal offense under section 520e or
9 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and
10 750.520g. A certified copy of the court record is conclusive
11 evidence of the conviction.

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

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

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

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

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

4 (xiii) Conviction of a criminal offense under section 83, 84,
5 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal
6 code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321,
7 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the
8 court record is conclusive evidence of the conviction.

9 (xiv) Conviction of a violation of section 136 or 136a of the
10 Michigan penal code, 1931 PA 328, MCL 750.136 and 750.136a. A
11 certified copy of the court record is conclusive evidence of the
12 conviction.

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

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

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

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

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

24 (d) Except as otherwise specifically provided in this section,
25 unethical business practices, consisting of 1 or more of the
26 following:

27 (i) False or misleading advertising.

28 (ii) Dividing fees for referral of patients or accepting
29 kickbacks on medical or surgical services, appliances, or

1 medications purchased by or in behalf of patients.

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

4 (e) Except as otherwise specifically provided in this section,
5 unprofessional conduct, consisting of 1 or more of the following:

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

9 (ii) Betrayal of a professional confidence.

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

12 (iv) Either of the following:

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

18 (B) A referral by a physician for a designated health service
19 that violates 42 USC 1395nn or a regulation promulgated under that
20 section. For purposes of this subdivision, 42 USC 1395nn and the
21 regulations promulgated under that section as they exist on June 3,
22 2002 are incorporated by reference. A disciplinary subcommittee
23 shall apply 42 USC 1395nn and the regulations promulgated under
24 that section regardless of the source of payment for the designated
25 health service referred and rendered. If 42 USC 1395nn or a
26 regulation promulgated under that section is revised after June 3,
27 2002, the department shall officially take notice of the revision.
28 Within 30 days after taking notice of the revision, the department
29 shall decide whether or not the revision pertains to referral by

1 physicians for designated health services and continues to protect
2 the public from inappropriate referrals by physicians. If the
3 department decides that the revision does both of those things, the
4 department may promulgate rules to incorporate the revision by
5 reference. If the department does promulgate rules to incorporate
6 the revision by reference, the department shall not make any
7 changes to the revision. As used in this sub-subparagraph,
8 "designated health service" means that term as defined in 42 USC
9 1395nn and the regulations promulgated under that section and
10 "physician" means that term as defined in sections 17001 and 17501.

11 (v) For a physician who makes referrals under 42 USC 1395nn or
12 a regulation promulgated under that section, refusing to accept a
13 reasonable proportion of patients eligible for Medicaid and
14 refusing to accept payment from Medicaid or Medicare as payment in
15 full for a treatment, procedure, or service for which the physician
16 refers the individual and in which the physician has a financial
17 interest. A physician who owns all or part of a facility in which
18 he or she provides surgical services is not subject to this
19 subparagraph if a referred surgical procedure he or she performs in
20 the facility is not reimbursed at a minimum of the appropriate
21 Medicaid or Medicare outpatient fee schedule, including the
22 combined technical and professional components.

23 (vi) Any conduct by a health professional with a patient while
24 he or she is acting within the health profession for which he or
25 she is licensed or registered, including conduct initiated by a
26 patient or to which the patient consents, that is sexual or may
27 reasonably be interpreted as sexual, including, but not limited to,
28 sexual intercourse, kissing in a sexual manner, or touching of a
29 body part for any purpose other than appropriate examination,

1 treatment, or comfort.

2 (vii) Offering to provide practice-related services, such as
3 drugs, in exchange for sexual favors.

4 (viii) A violation of section 16655(4) by a dental therapist.

5 (f) Failure to notify under section 16222(3) or (4).

6 (g) Failure to report a change of name or mailing address as
7 required in section 16192.

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

10 (i) Failure to comply with a subpoena issued pursuant to this
11 part, failure to respond to a complaint issued under this article,
12 article 7, or article 8, failure to appear at a compliance
13 conference or an administrative hearing, or failure to report under
14 section 16222(1) or 16223.

15 (j) Failure to pay an installment of an assessment levied
16 under the insurance code of 1956, 1956 PA 218, MCL 500.100 to
17 500.8302, within 60 days after notice by the appropriate board.

18 (k) A violation of section 17013 or 17513.

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

21 (m) A violation of section 17015, 17015a, **17015b**, 17017,
22 17515, or 17517.

23 (n) A violation of section 17016 or 17516.

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

25 (p) A violation of section 5654 or 5655.

26 (q) A violation of section 16274.

27 (r) A violation of section 17020 or 17520.

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

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

(u) Failure to comply with the terms of a practice agreement described in section 17047(2)(a) or (b), 17547(2)(a) or (b), or 18047(2)(a) or (b).

(v) A violation of section 7303a(2).

(w) A violation of section 7303a(4) or (5).

(x) A violation of section 7303b.

(y) A violation of section 17754a.

(z) Beginning January 1, 2021, a violation of section 24507 or 24509.

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

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

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

(2) Subsection (1) does not apply to a violation of section 17015, 17015a, **17015b**, 17017, 17515, or 17517 or to a violation of this article for which another criminal penalty is specifically prescribed.

Sec. 17015. (1) Subject to subsection (10), a physician shall not perform an abortion otherwise permitted by law without the patient's informed written consent, given freely and without coercion to abort.

(2) For purposes of this section and ~~section~~**sections** 17015a and **17015b**:

(a) "Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a fetus that has died as a result of natural causes, accidental trauma, or a criminal assault on the pregnant woman. Abortion does not include ~~the~~ **any of the following:**

(i) **The** use or prescription of a drug or device intended as a contraceptive.

(ii) **Any medical treatment that is provided to a woman who is experiencing an intrauterine fetal death or has been diagnosed with an extrauterine pregnancy.**

(b) "Coercion to abort" means an act committed with the intent to coerce an individual to have an abortion, ~~which act is as~~ prohibited by section 213a of the Michigan penal code, 1931 PA 328, MCL 750.213a.

(c) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(d) "Fetus" means an individual organism of the species ~~homo sapiens~~ **Homo sapiens** in utero.

(e) "Local health department representative" means ~~a person an~~ **individual** who meets 1 or more of the licensing requirements listed in subdivision (h) and who is employed by, or under contract to provide services on behalf of, a local health department.

(f) "Medical emergency" means ~~that a condition which, that,~~ on the basis of the physician's ~~good faith~~ **good-faith** clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of

1 substantial and irreversible impairment of a major bodily function.

2 (g) "Medical service" means the provision of a treatment,
3 procedure, medication, examination, diagnostic test, assessment, or
4 counseling, including, but not limited to, a pregnancy test,
5 ultrasound, pelvic examination, or an abortion.

6 (h) "Qualified person assisting the physician" means another
7 physician or a physician's assistant licensed under this part or
8 part 175, a fully licensed or limited licensed psychologist
9 licensed under part 182, a professional counselor licensed under
10 part 181, a registered professional nurse or a licensed practical
11 nurse licensed under part 172, or a social worker licensed under
12 part 185.

13 (i) "Probable gestational age of the fetus" means the
14 gestational age of the fetus at the time an abortion is planned to
15 be performed.

16 (j) "Provide the patient with a physical copy" means
17 confirming that the patient accessed the internet website described
18 in subsection (5) and received a printed valid confirmation form
19 from the website and including that form in the patient's medical
20 record or giving a patient a copy of a required document by 1 or
21 more of the following means:

22 (i) In person.

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

24 (iii) By parcel delivery service that requires the recipient to
25 provide a signature in order to receive delivery of a parcel.

26 (iv) By facsimile transmission.

27 (3) Subject to subsection (10), a physician or a qualified
28 person assisting the physician shall do all of the following not
29 less than 24 hours before that physician performs an abortion upon

1 a patient who is a pregnant woman:

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

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

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

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

11 (iii) Information about how to obtain pregnancy prevention
12 information through the department of ~~community health~~ **and human**
13 **services**.

14 (c) Provide the patient with a physical copy of the written
15 standardized summary described in subsection (11) (b) that
16 corresponds to the procedure the patient will undergo and is
17 provided by the department of ~~community health~~ **and human services**.
18 If the procedure has not been recognized by the department **of**
19 **health and human services**, but is otherwise allowed under Michigan
20 law, and the department **of health and human services** has not
21 provided a written standardized summary for that procedure, the
22 physician shall develop and provide a written summary that
23 describes the procedure, any known risks or complications of the
24 procedure, and risks associated with live birth and meets the
25 requirements of subsection (11) (b) (iii) ~~through~~ **to** (vii).

26 (d) Provide the patient with a physical copy of a medically
27 accurate depiction, illustration, or photograph and description of
28 a fetus supplied by the department of ~~community health~~ **and human services** ~~pursuant to~~
29 **under** subsection (11) (a) at the gestational age

1 nearest the probable gestational age of the patient's fetus.

2 (e) Provide the patient with a physical copy of the prenatal
3 care and parenting information pamphlet distributed by the
4 department of ~~community health~~ **and human services** under section
5 9161.

6 (f) Provide the patient with a physical copy of the
7 prescreening summary on prevention of coercion to abort described
8 in subsection (11)(i).

9 (4) The requirements of subsection (3) may be fulfilled by the
10 physician or a qualified person assisting the physician at a
11 location other than the health facility where the abortion is to be
12 performed. The requirement of subsection (3)(a) that a patient's
13 pregnancy be confirmed may be fulfilled by a local health
14 department under subsection (18). The requirements of subsection
15 (3) cannot be fulfilled by the patient accessing an internet
16 website other than the internet website that is maintained and
17 operated by the department **of health and human services** under
18 subsection (11)(g).

19 (5) The requirements of subsection (3)(c) ~~through to~~ (f) may
20 be fulfilled by a patient accessing the internet website that is
21 maintained and operated by the department **of health and human**
22 **services** under subsection (11)(g) and receiving a printed, valid
23 confirmation form from the website that the patient has reviewed
24 the information required in subsection (3)(c) ~~through to~~ (f) at
25 least 24 hours before an abortion being performed on the patient.
26 The website ~~shall~~**must** not require any information be supplied by
27 the patient. The department **of health and human services** shall not
28 track, compile, or otherwise keep a record of information that
29 would identify a patient who accesses this website. The patient

1 shall supply the valid confirmation form to the physician or
2 qualified person assisting the physician to be included in the
3 patient's medical record to comply with this subsection.

4 (6) Subject to subsection (10), before obtaining the patient's
5 signature on the acknowledgment and consent form **described in**
6 **subsection (11)(c)**, a physician personally and in the presence of
7 the patient shall do all of the following:

8 (a) Provide the patient with the physician's name, confirm
9 with the patient that the coercion to abort screening required
10 under section 17015a was performed, and inform the patient of her
11 right to withhold or withdraw her consent to the abortion at any
12 time before **the** performance of the abortion.

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

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

20 (ii) The specific risk of complications, if any, to the patient
21 if she chooses to continue the pregnancy based on the patient's
22 particular medical condition and history as determined by a
23 physician.

24 (iii) **If the patient will undergo a procedure that utilizes the**
25 **drugs known as mifepristone and misoprostol, information about the**
26 **existence of treatment to reverse the effects of mifepristone**
27 **before ingesting misoprostol to increase the possibility of**
28 **maintaining the pregnancy if the patient changes her mind about**
29 **terminating the pregnancy.**

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

4 (8) If at any time before the performance of an abortion, a
5 patient undergoes an ultrasound examination, or a physician
6 determines that ultrasound imaging will be used during the course
7 of a patient's abortion, the physician or qualified person
8 assisting the physician shall provide the patient with the
9 opportunity to view or decline to view an active ultrasound image
10 of the fetus, and offer to provide the patient with a physical
11 picture of the ultrasound image of the fetus before the performance
12 of the abortion. After the expiration of the 24-hour period
13 prescribed under subsection (3) but before performing an abortion
14 on a patient who is a pregnant woman, a physician or a qualified
15 person assisting the physician shall do all of the following:

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

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

21 (c) Retain a copy of the signed acknowledgment and consent
22 form described in subsection (11)(c) and, if applicable, a copy of
23 the pregnancy certification form completed under subsection
24 (18)(b), in the patient's medical record.

25 (9) This subsection does not prohibit notifying the patient
26 that payment for medical services will be required or that
27 collection of payment in full for all medical services provided or
28 planned may be demanded after the 24-hour period described in this
29 subsection has expired. A physician or an agent of the physician

1 shall not collect payment, in whole or in part, for a medical
2 service provided to or planned for a patient before the expiration
3 of 24 hours from the time the patient has done either or both of
4 the following, except in the case of a physician or an agent of a
5 physician receiving capitated payments or under a salary
6 arrangement for providing those medical services:

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

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

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

21 (11) The department of ~~community health~~ **and human services**
22 shall do each of the following:

23 (a) Produce medically accurate depictions, illustrations, or
24 photographs of the development of a human fetus that indicate by
25 scale the actual size of the fetus at 2-week intervals from the
26 fourth week through the twenty-eighth week of gestation. Each
27 depiction, illustration, or photograph ~~shall~~**must** be accompanied by
28 a printed description, in nontechnical English, Arabic, and
29 Spanish, of the probable anatomical and physiological

1 characteristics of the fetus at that particular state of
2 gestational development.

3 (b) Subject to subdivision (e), develop, draft, and print, in
4 nontechnical English, Arabic, and Spanish, written standardized
5 summaries, based upon the various medical procedures used to abort
6 pregnancies, that do each of the following:

7 (i) Describe, individually and on separate documents, those
8 medical procedures used to perform abortions in this state that are
9 recognized by the department **of health and human services**.

10 (ii) Identify the physical complications that have been
11 associated with each procedure described in subparagraph (i) and
12 with live birth, as determined by the department **of health and**
13 **human services**. In identifying these complications, the department
14 **of health and human services** shall consider the annual statistical
15 report required under section 2835, and shall consider studies
16 concerning complications that have been published in a peer review
17 medical journal, with particular attention paid to the design of
18 the study, and shall consult with the federal ~~centers for disease~~
19 ~~control and prevention~~, **Centers for Disease Control and Prevention**,
20 the American ~~congress of obstetricians and gynecologists~~, **Congress**
21 **of Obstetricians and Gynecologists**, the Michigan ~~state medical~~
22 ~~society~~, **State Medical Society**, or any other source that the
23 department **of health and human services** determines appropriate for
24 the purpose.

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

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

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

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

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

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

"I, _____, voluntarily and willfully hereby authorize Dr. _____ ("the physician") and any assistant designated by the physician to perform upon me the following operation(s) or procedure(s):

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

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

1 procedure.

2 B. I understand that it is illegal for anyone to coerce me
3 into seeking an abortion.

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

6 1. A medically accurate depiction, illustration, or photograph
7 of a fetus at the probable gestational age of the fetus I am
8 carrying.

9 2. A written description of the medical procedure that will be
10 used to perform the abortion.

11 3. A prenatal care and parenting information pamphlet.

12 D. If any of the documents listed in paragraph C were
13 transmitted by facsimile, I certify that the documents were clear
14 and legible.

15 E. I acknowledge that the physician who will perform the
16 abortion has orally described all of the following to me:

17 1. The specific risk to me, if any, of the complications that
18 have been associated with the procedure I am scheduled to undergo.

19 2. The specific risk to me, if any, of the complications if I
20 choose to continue the pregnancy.

21 F. I acknowledge that I have received all of the following
22 information:

23 1. Information about what to do and whom to contact in the
24 event that complications arise from the abortion.

25 2. Information pertaining to available pregnancy related
26 services.

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

29 H. I certify that I have not been required to make any

1 payments for an abortion or any medical service before the
2 expiration of 24 hours after I received the written materials
3 listed in paragraph C, or 24 hours after the time and date listed
4 on the confirmation form if the information described in paragraph
5 C was viewed from the state of Michigan internet ~~website.~~ website.

6 **I. If an ultrasound procedure was performed upon me, I certify**
7 **that I was offered the opportunity to view, or decline to view, an**
8 **active ultrasound image of the fetus or receive a physical picture**
9 **of the ultrasound image of the fetus that I am carrying.**

10 **J. I certify that a fetal heartbeat (check 1) ___ has ___ has**
11 **not been detected. If a fetal heartbeat has not been detected, I**
12 **certify that I have been informed about the probability of**
13 **maintaining the pregnancy.**

14 **K. If I am undergoing an abortion procedure that utilizes the**
15 **drug known as mifepristone, I have been informed about the**
16 **existence of treatment to reverse the effects of mifepristone**
17 **before ingesting misoprostol to increase the possibility of**
18 **maintaining my pregnancy if I change my mind about terminating the**
19 **pregnancy."**

20 (d) Make available to physicians through the Michigan board of
21 medicine and the Michigan board of osteopathic medicine and
22 surgery, and to any person upon request, the copies of medically
23 accurate depictions, illustrations, or photographs described in
24 subdivision (a), the written standardized summaries described in
25 subdivision (b), the acknowledgment and consent form described in
26 subdivision (c), the prenatal care and parenting information
27 pamphlet described in section 9161, the pregnancy certification
28 form described in subdivision (f), and the materials regarding
29 coercion to abort described in subdivision (i).

1 (e) ~~The department shall not develop~~ **In developing the** written
 2 standardized summaries for abortion procedures under subdivision
 3 (b), ~~that utilize~~ **include in the summaries only** medication that has
 4 ~~not been approved by the United States food and drug administration~~
 5 **Food and Drug Administration** for use in performing an abortion.

6 (f) Develop, draft, and print a certification form to be
 7 signed by a local health department representative at the time and
 8 place a patient has a pregnancy confirmed, as requested by the
 9 patient, verifying the date and time the pregnancy is confirmed.

10 (g) Develop, operate, and maintain an internet website that
 11 allows a patient considering an abortion to review the information
 12 required in subsection (3)(c) ~~through to~~ (f). After the patient
 13 reviews the required information, the department **of health and**
 14 **human services** shall ~~assure~~ **ensure** that a confirmation form can be
 15 printed by the patient from the internet website that will verify
 16 the time and date the information was reviewed. A confirmation form
 17 printed under this subdivision becomes invalid 14 days after the
 18 date and time printed on the confirmation form.

19 (h) Include on the informed consent internet website operated
 20 under subdivision (g) a list of health care providers, facilities,
 21 and clinics that offer to perform ultrasounds free of charge. The
 22 list ~~shall~~ **must** be organized geographically and ~~shall~~ **must** include
 23 the name, address, and telephone number of each health care
 24 provider, facility, and clinic.

25 (i) After considering the standards and recommendations of the
 26 ~~joint commission on accreditation of healthcare organizations,~~
 27 **Joint Commission on Accreditation of Healthcare Organizations**, the
 28 Michigan ~~domestic and sexual violence prevention and treatment~~
 29 ~~board,~~ **Domestic Violence and Sexual Violence Prevention and**

Treatment Board, the Michigan ~~coalition to end domestic and sexual violence~~ **Coalition to End Domestic and Sexual Violence** or successor organization, and the American ~~medical association,~~ **Medical Association**, do all of the following:

(i) Develop, draft, and print or make available in printable format, in nontechnical English, Arabic, and Spanish, a notice that is required to be posted in facilities and clinics under section 17015a. The notice ~~shall~~ **must** be at least 8-1/2 inches by 14 inches, ~~shall~~ **must** be printed in at least 44-point type, and ~~shall~~ **must** contain at a minimum all of the following:

(A) A statement that it is illegal under Michigan law to coerce a woman to have an abortion.

(B) A statement that help is available if a woman is being threatened or intimidated; is being physically, emotionally, or sexually harmed; or feels afraid for any reason.

(C) The telephone number of at least 1 domestic violence hotline and 1 sexual assault hotline.

(ii) Develop, draft, and print or make available in printable format, in nontechnical English, Arabic, and Spanish, a prescreening summary on prevention of coercion to abort that, at a minimum, contains the information required under subparagraph (i) and notifies the patient that an oral screening for coercion to abort will be conducted before her giving written consent to obtain an abortion.

(iii) Develop, draft, and print screening and training tools and accompanying training materials to be utilized by a physician or qualified person assisting the physician while performing the coercion to abort screening required under section 17015a. The screening tools ~~shall~~ **must** instruct the physician or qualified

1 person assisting the physician to orally communicate information to
2 the patient regarding coercion to abort and to document the
3 findings from the coercion to abort screening in the patient's
4 medical record.

5 (iv) Develop, draft, and print protocols and accompanying
6 training materials to be utilized by a physician or a qualified
7 person assisting the physician if a patient discloses coercion to
8 abort or that domestic violence is occurring, or both, during the
9 coercion to abort screening. The protocols ~~shall~~**must** instruct the
10 physician or qualified person assisting the physician to do, at a
11 minimum, all of the following:

12 (A) Follow the requirements of section 17015a as applicable.

13 (B) Assess the patient's current level of danger.

14 (C) Explore safety options with the patient.

15 (D) Provide referral information to the patient regarding law
16 enforcement and domestic violence and sexual assault support
17 organizations.

18 (E) Document any referrals in the patient's medical record.

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

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

29 (14) A completed certification form described in subsection

1 (11)(f) that is signed by a local health department representative
2 is presumed valid. The presumption created by this subsection may
3 be rebutted by evidence that establishes, by a preponderance of the
4 evidence, that the physician who relied upon the certification had
5 actual knowledge that the certificate contained a false or
6 misleading statement or signature.

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

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

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

16 (18) Upon a patient's request, ~~each-a~~ local health department
17 shall **comply with the following:**

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

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

26 (19) The identity and address of a patient who is provided
27 information or who consents to an abortion ~~pursuant to~~ **under** this
28 section is confidential and is subject to disclosure only with the
29 consent of the patient or by judicial process.

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

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

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

11 **Sec. 17015b. (1) Except when a medical emergency exists that**
12 **prevents compliance with this section, a physician shall not**
13 **perform an abortion on a pregnant woman before determining, in**
14 **accordance with standard medical practice, whether a fetal**
15 **heartbeat is detectable in the fetus the pregnant woman is**
16 **carrying. An individual who performs an abortion in a medical**
17 **emergency without determining whether the fetus has a detectable**
18 **heartbeat shall note in the pregnant woman's medical record the**
19 **specific nature of the medical emergency that existed. Compliance**
20 **with this section does not require the use of an intravaginal**
21 **diagnostic procedure.**

22 (2) If during the examination required under subsection (1) a
23 fetal heartbeat is detected, the physician or a qualified person
24 assisting the physician shall offer to the pregnant woman the
25 option of hearing or seeing evidence of the fetal heartbeat.

26 (3) If the examination required under subsection (1) does not
27 detect a fetal heartbeat, the physician or a qualified person
28 assisting the physician shall do all of the following that apply:

29 (a) Inform the pregnant woman of the probability of

1 maintaining the pregnancy versus experiencing a miscarriage, given
2 the absence of a detectable fetal heartbeat, the state of
3 pregnancy, and other factors known to affect the possibility of a
4 miscarriage.

5 (b) Inform the pregnant woman whether an additional option for
6 detecting the fetal heartbeat is available, including, but not
7 limited to, an additional diagnostic procedure that could be
8 performed immediately, or an additional diagnostic procedure that
9 could be delayed until a later date, to determine if the fetus is
10 physically developing.

11 (c) If the fetus has been visibly identified but is not
12 exhibiting a heartbeat or other signs of physical activity, advise
13 the pregnant woman that a procedure to remove a fetus that has died
14 is not considered an abortion under law and inform the pregnant
15 woman of the relative risks and benefits of different means of
16 terminating the pregnancy, including medical inducement, a surgical
17 procedure, or allowing a miscarriage to occur spontaneously.

18 Sec. 17019. (1) At the time a physician informs a patient of
19 the results of a prenatal diagnostic test that has potentially
20 identified or confirmed a life-limiting condition of the fetus, the
21 physician or a qualified person assisting the physician shall
22 provide the patient with the form described in section 21416(1)(b).

23 (2) At the time a physician informs a patient of the results
24 of a prenatal diagnostic test that has potentially identified or
25 confirmed a prenatally diagnosed condition, the physician or a
26 qualified person assisting the physician shall provide the patient
27 with the form described in section 21416(1)(c).

28 (3) As used in this section:

29 (a) "Life-limiting condition" means a medical condition

1 identified by prenatal diagnostic testing that will, with
2 reasonable certainty, result in the death of the child either
3 before birth or within 1 year after birth.

4 (b) "Prenatally diagnosed condition" means a medical condition
5 identified by prenatal diagnostic testing that will either
6 temporarily or permanently require medical treatment or other
7 support services after birth but will not, with reasonable
8 certainty, result in the death of the child within 1 year after
9 birth.

10 (c) "Qualified person assisting the physician" means that term
11 as defined in section 17015.

12 Sec. 17515. A physician, before performing an abortion on a
13 patient, shall comply with sections 17015 ~~and 17015a~~ to 17015b.

14 Sec. 17519. A physician shall comply with section 17019.

15 Sec. 20187. Beginning 1 year after the effective date of the
16 amendatory act that added this section, a health facility or agency
17 that provides obstetric care and that provides social work or
18 chaplaincy services in conjunction with its health services shall
19 provide its social workers and chaplains, as appropriate, with the
20 forms described in section 21416(1).

21 Sec. 21416. (1) By 1 year after the effective date of the
22 amendatory act that added this section, the department of health
23 and human services shall do all of the following:

24 (a) Determine which hospices licensed under this article
25 provide perinatal hospice care.

26 (b) Develop and make available in a printable format on its
27 website a form that contains all of the following:

28 (i) A statement that a prenatal diagnostic test that
29 potentially identifies a life-limiting condition is not the same as

1 a confirmed diagnosis and that a parent who receives the results of
2 a prenatal diagnostic test that potentially identifies a life-
3 limiting condition is advised to obtain a confirmed diagnosis
4 before obtaining treatment for the life-limiting condition,
5 including, but not limited to, perinatal hospice care.

6 (ii) A description of perinatal hospice care.

7 (iii) The website address of the clearinghouse and a statement
8 that the clearinghouse has a list of each hospice licensed in this
9 state that provides perinatal hospice care.

10 (c) Develop and make available in a printable format on its
11 website a form that contains all of the following:

12 (i) A statement that a prenatal diagnostic test that
13 potentially identifies a prenatally diagnosed condition is not the
14 same as a confirmed diagnosis and that a parent receiving the
15 results of the prenatal diagnostic test that potentially identifies
16 a prenatally diagnosed condition is advised to obtain a confirmed
17 diagnosis before obtaining treatment and support services for the
18 prenatally diagnosed condition.

19 (ii) The website address of the clearinghouse.

20 (iii) A statement that the clearinghouse contains all of the
21 following information:

22 (A) Up-to-date and medically accurate information on health
23 outcomes, including, but not limited to, clinical course, life
24 expectancy, and development potential for a child born with a
25 prenatally diagnosed condition.

26 (B) Information on early intervention services for the
27 functional development and education of a child born with a
28 prenatally diagnosed condition, including, but not limited to,
29 referral information for "Early on Michigan".

1 (C) Referral information for peer support groups, including,
2 but not limited to, support groups for parents of children with
3 prenatally diagnosed conditions and advocacy organizations for
4 individuals with those conditions.

5 (D) Referral information for adoption, including, but not
6 limited to, adoption agencies that place children with prenatally
7 diagnosed conditions and organizations that maintain registries of
8 families who wish to adopt children with those conditions.

9 (d) Create, operate, and maintain, or contract with an
10 organization or institution of higher education to create, operate,
11 and maintain, a clearinghouse that contains information regarding
12 life-limiting conditions and prenatally diagnosed conditions,
13 including, but not limited to, the information described in this
14 section.

15 (e) Develop criteria for approving a qualified contributor
16 that requests authorization to contribute information for purposes
17 of posting the information on the clearinghouse.

18 (2) The department of health and human services, or a person
19 with whom the department has contracted under subsection (1) (d) ,
20 shall do all of the following:

21 (a) Post on the clearinghouse, in a printable format, a list
22 of each hospice licensed under this article that provides perinatal
23 hospice care.

24 (b) Create, and update as needed, a list of medical conditions
25 that meet all of the following:

26 (i) Can affect a developing unborn child.

27 (ii) Can be detected by prenatal diagnostic tests.

28 (iii) Necessitates medical treatment or special services before
29 birth or at birth.

1 (iv) Occurs with a frequency of at least 1 instance per 100,000
2 births.

3 (c) Provide the list described in subdivision (b) to a
4 prospective qualified contributor upon request and, if the list
5 described in subdivision (b) is created and updated by a person
6 with whom the department has contracted under subsection (1)(d),
7 provide the list to the department upon request.

8 (d) Provide notice of approval or denial of a request by a
9 qualified contributor to contribute information for posting on the
10 clearinghouse in accordance with the criteria established under
11 subsection (1).

12 (e) For each medical condition identified in subdivision (b),
13 provide directly, or solicit from a qualified contributor,
14 information to be placed on the clearinghouse that describes the
15 condition, known treatment options or supportive services, and
16 information on government agencies or programs and private
17 organizations that provide service or support to individuals with
18 that condition or to their caregivers.

19 (f) Post on the clearinghouse information on, and website
20 links to, "Early on Michigan" and organizations that maintain
21 registries of families who wish to adopt children with prenatally
22 diagnosed conditions.

23 (g) Not less than annually, review the information posted on
24 the clearinghouse to confirm that the information remains medically
25 accurate and that the referral information is still accurate with
26 regard to support organizations and links to other websites.

27 (3) As used in this section:

28 (a) "Clearinghouse" means an internet website containing
29 information regarding life-limiting conditions and prenatally

1 diagnosed conditions as provided in this section.

2 (b) "Licensed medical professional" means an individual who is
3 licensed or otherwise authorized to practice medicine or
4 osteopathic medicine and surgery under article 15.

5 (c) "Life-limiting condition" means that term as defined in
6 section 17019.

7 (d) "Perinatal hospice care" means comprehensive medical and
8 supportive care to a pregnant woman and her family that includes
9 support from the time of diagnosis of a life-limiting condition
10 through the time of birth and death of the child. Perinatal hospice
11 care includes, but is not limited to, care by maternal-fetal
12 medical specialists, obstetricians, neonatologists, anesthesia
13 specialists, clergy, social workers, and specialty nurses.

14 (e) "Prenatally diagnosed condition" means that term as
15 defined in section 17019.

16 (f) "Qualified contributor" means a licensed medical
17 professional, an academic faculty member, another individual with
18 recognized knowledge or expertise regarding a prenatally diagnosed
19 condition, or an organization dedicated to research, treatment, or
20 support for individuals with a specific medical condition.

21 Enacting section 1. This amendatory act takes effect 90 days
22 after the date it is enacted into law.