

SUBSTITUTE FOR
HOUSE BILL NO. 5636

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 2811, 2823, 17101, 20104, 20106, and 20161
(MCL 333.2811, 333.2823, 333.17101, 333.20104, 333.20106, and
333.20161), section 2811 as amended by 1998 PA 332, section 17101
as added by 2016 PA 417, section 20104 as amended by 2022 PA 187,
section 20106 as amended by 2017 PA 167, and section 20161 as
amended by 2023 PA 138, and by adding sections 2823a and 22224c and
part 207.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2811. The department shall prescribe the form and content
2 of vital records and certificates, which, ~~shall~~ **except as otherwise**
3 **provided in this part, must** conform as nearly as possible to

1 recognized national standardized forms including, as required to
2 comply with federal law, requirements for the entry of ~~social~~
3 ~~security~~ **Social Security** numbers.

4 Sec. 2823. (1) When a live birth occurs in a moving conveyance
5 in the United States and the child is first removed from the
6 conveyance in this state, the birth ~~shall~~ **must** be registered in
7 this state. ~~The~~ **Except as otherwise provided in section 2823a, the**
8 place where the child is first removed from the conveyance ~~shall~~
9 **must** be shown as the place of birth.

10 (2) When a live birth occurs in a moving conveyance while in
11 international waters or air space or a foreign country and the
12 child is first removed from the conveyance in this state, the birth
13 ~~shall~~ **must** be registered in this state but the certificate ~~shall~~
14 **must** show the actual place of birth ~~insofar as~~ **if** the place can be
15 determined.

16 Sec. 2823a. (1) **Except as otherwise provided in subsection**
17 **(2), when a live birth occurs in this state, the place of birth**
18 **must be listed on the certificate as follows:**

19 (a) **If the live birth occurs in an institution or en route to**
20 **an institution, the place of birth must be listed as the**
21 **institution.**

22 (b) **If the live birth occurs in or en route to a freestanding**
23 **birth center licensed under article 17, the place of birth must be**
24 **listed as the freestanding birth center.**

25 (c) **If the live birth occurs in a home, the place of birth**
26 **must be listed as "home".**

27 (2) **The place of birth of a child of unknown parentage who is**
28 **found is as provided in section 2825.**

29 Sec. 17101. (1) As used in this part:

1 (a) "Appropriate health professional", for the purposes of
2 referral, consultation, or collaboration with a midwife under this
3 part, means any of the following:

4 (i) A physician.

5 (ii) A certified nurse midwife.

6 (iii) As identified in rules promulgated under section 17117,
7 another appropriate health professional licensed, registered, or
8 otherwise authorized to engage in a health profession under this
9 article.

10 (b) "Certified nurse midwife" means a registered professional
11 nurse **licensed** under part 172 who has been granted a specialty
12 certification in the **health** profession specialty field of nurse
13 midwifery by the **Michigan** board of nursing under section 17210.

14 (c) "Health care provider" means an individual who is licensed
15 or registered under this article.

16 (d) "Midwife" means an individual licensed under this part to
17 engage in the practice of midwifery.

18 (e) "Physician" means an individual licensed to engage in the
19 practice of medicine under part 170 or the practice of osteopathic
20 medicine and surgery under part 175.

21 (f) "Practice of midwifery", subject to subsection (2), means
22 providing ~~maternity~~**perinatal** care that is consistent with a
23 midwife's training, education, and experience, to ~~women~~**individuals**
24 and neonates during the antepartum, intrapartum, and postpartum
25 periods.

26 (2) For purposes of this part, practice of midwifery does not
27 include either of the following:

28 (a) The practice of medicine or osteopathic medicine and
29 surgery.

1 (b) The practice of nursing, including the practice of nursing
2 with a specialty certification in the **health** profession specialty
3 field of nurse midwifery under part 172.

4 (3) In addition to the definitions of this part, article 1
5 contains general definitions and principles of construction
6 applicable to all articles in this code and part 161 contains
7 definitions applicable to this part.

8 Sec. 20104. (1) Except as otherwise provided in part 221,
9 "certification" means the issuance of a document by the department
10 to a health facility or agency attesting to the fact that the
11 health facility or agency meets both of the following:

12 (a) It complies with applicable statutory and regulatory
13 requirements and standards.

14 (b) It is eligible to participate as a provider of care and
15 services in a specific federal or state health program.

16 (2) "Consumer" means a person who is not a health care
17 provider as that term is defined in 42 USC 300jj.

18 (3) "County medical care facility" means a nursing care
19 facility, other than a hospital long-term care unit, that provides
20 organized nursing care and medical treatment to 7 or more unrelated
21 individuals who are suffering or recovering from illness, injury,
22 or infirmity and that is owned by a county or counties.

23 (4) "Department" means the department of licensing and
24 regulatory affairs.

25 (5) "Direct access" means access to a patient or resident or
26 to a patient's or resident's property, financial information,
27 medical records, treatment information, or any other identifying
28 information.

29 (6) "Director" means the director of the department.

1 **(7) "Freestanding birth center" means that term as defined in**
 2 **section 20701.**

3 **(8) ~~(7)~~**—"Freestanding surgical outpatient facility" means a
 4 facility, other than the office of a physician, dentist,
 5 podiatrist, or other private practice office, offering a surgical
 6 procedure and related care that in the opinion of the attending
 7 physician can be safely performed without requiring overnight
 8 inpatient hospital care. Freestanding surgical outpatient facility
 9 does not include a surgical outpatient facility owned by and
 10 operated as part of a hospital.

11 **(9) ~~(8)~~**—"Good moral character" means that term as defined in,
 12 and determined under, 1974 PA 381, MCL 338.41 to 338.47.

13 Sec. 20106. (1) "Health facility or agency", except as
 14 provided in section 20115, means:

15 (a) An ambulance operation, aircraft transport operation,
 16 nontransport prehospital life support operation, or medical first
 17 response service.

18 (b) A county medical care facility.

19 (c) A freestanding surgical outpatient facility.

20 (d) A health maintenance organization.

21 (e) A home for the aged.

22 (f) A hospital.

23 (g) A nursing home.

24 (h) A hospice.

25 (i) A hospice residence.

26 (j) A facility or agency listed in subdivisions (a) to (g)
 27 located in a university, college, or other educational institution.

28 **(k) A freestanding birth center.**

29 (2) "Health maintenance organization" means that term as

1 defined in section 3501 of the insurance code of 1956, 1956 PA 218,
2 MCL 500.3501.

3 (3) "Home for the aged" means a supervised personal care
4 facility at a single address, other than a hotel, adult foster care
5 facility, hospital, nursing home, or county medical care facility
6 that provides room, board, and supervised personal care to 21 or
7 more unrelated, nontransient ~~—~~individuals 55 years of age or
8 older. Home for the aged includes a supervised personal care
9 facility for 20 or fewer individuals 55 years of age or older if
10 the facility is operated in conjunction with and as a distinct part
11 of a licensed nursing home. Home for the aged does not include an
12 area excluded from this definition by section 17(3) of the
13 continuing care community disclosure act, 2014 PA 448, MCL 554.917.

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

18 (5) "Hospital" means a facility offering inpatient, overnight
19 care, and services for observation, diagnosis, and active treatment
20 of an individual with a medical, surgical, obstetric, chronic, or
21 rehabilitative condition requiring the daily direction or
22 supervision of a physician. Hospital does not include a mental
23 health hospital licensed or operated by the department of health
24 and human services or a hospital operated by the department of
25 corrections.

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

or infirmity.

Sec. 20161. (1) The department shall assess fees and other assessments for health facility and agency licenses and certificates of need on an annual basis as provided in this article. Until October 1, 2027, except as otherwise provided in this article, fees and assessments must be paid as provided in the following schedule:

- (a) Freestanding surgical outpatient facilities..... \$500.00 per facility license.
- (b) Hospitals..... \$500.00 per facility license and \$10.00 per licensed bed.
- (c) Nursing homes, county medical care facilities, and hospital long-term care units..... \$500.00 per facility license and \$3.00 per licensed bed over 100 licensed beds.
- (d) Homes for the aged..... \$500.00 per facility license and \$6.27 per licensed bed.
- (e) Hospice agencies..... \$500.00 per agency license.
- (f) Hospice residences..... \$500.00 per facility license and \$5.00 per licensed bed.
- (g) Freestanding birth center \$500.00 per facility license.**
- (h) ~~(g)~~—Subject to subsection (11), quality assurance assessment for nursing homes and hospital long-term care units..... an amount resulting in not more than 6% of total industry revenues.**

(2) If a hospital requests the department to conduct a certification survey for purposes of title XVIII or title XIX, the hospital shall pay a license fee surcharge of \$23.00 per bed. As used in this subsection:

(b) "Title XIX" means title XIX of the social security act, 42 USC 1396 to ~~1396w-7~~. **1396w-8**.

(a) The base fee for a certificate of need is \$3,000.00 for each application. For a project requiring a projected capital expenditure of more than \$500,000.00 but less than \$4,000,000.00, an additional fee of \$5,000.00 is added to the base fee. For a project requiring a projected capital expenditure of \$4,000,000.00 or more but less than \$10,000,000.00, an additional fee of

1 \$8,000.00 is added to the base fee. For a project requiring a
2 projected capital expenditure of \$10,000,000.00 or more, an
3 additional fee of \$12,000.00 is added to the base fee.

4 (b) In addition to the fees under subdivision (a), the
5 applicant shall pay \$3,000.00 for any designated complex project
6 including a project scheduled for comparative review or for a
7 consolidated licensed health facility application for acquisition
8 or replacement.

9 (c) If required by the department, the applicant shall pay
10 \$1,000.00 for a certificate of need application that receives
11 expedited processing at the request of the applicant.

12 (d) The department shall charge a fee of \$500.00 to review any
13 letter of intent requesting or resulting in a waiver from
14 certificate of need review and any amendment request to an approved
15 certificate of need.

16 (e) A health facility or agency that offers certificate of
17 need covered clinical services shall pay \$100.00 for each
18 certificate of need approved covered clinical service as part of
19 the certificate of need annual survey at the time of submission of
20 the survey data.

21 (f) Except as otherwise provided in this section, the
22 department shall use the fees collected under this subsection only
23 to fund the certificate of need program. Funds remaining in the
24 certificate of need program at the end of the fiscal year do not
25 lapse to the general fund but remain available to fund the
26 certificate of need program in subsequent years.

27 (4) A license issued under this part is effective for no
28 longer than 1 year after the date of issuance.

29 (5) Fees described in this section are payable to the

1 department at the time an application for a license, permit, or
2 certificate is submitted. If an application for a license, permit,
3 or certificate is denied or if a license, permit, or certificate is
4 revoked before its expiration date, the department shall not refund
5 fees paid to the department.

6 (6) The fee for a provisional license or temporary permit is
7 the same as for a license. A license may be issued at the
8 expiration date of a temporary permit without an additional fee for
9 the balance of the period for which the fee was paid if the
10 requirements for licensure are met.

11 (7) The cost of licensure activities must be supported by
12 license fees.

13 (8) The application fee for a waiver under section 21564 is
14 \$200.00 plus \$40.00 per hour for the professional services and
15 travel expenses directly related to processing the application. The
16 travel expenses must be calculated in accordance with the state
17 standardized travel regulations of the department of technology,
18 management, and budget in effect at the time of the travel.

19 (9) An applicant for licensure or renewal of licensure under
20 part 209 shall pay the applicable fees set forth in part 209.

21 (10) Except as otherwise provided in this section, the fees
22 and assessments collected under this section must be deposited in
23 the state treasury, to the credit of the general fund. The
24 department may use the unreserved fund balance in fees and
25 assessments for the criminal history check program required under
26 this article.

27 (11) The quality assurance assessment collected under
28 subsection ~~(1) (g)~~ **(1) (h)** and all federal matching funds attributed
29 to that assessment must be used only for the following purposes and

1 under the following specific circumstances:

2 (a) The quality assurance assessment and all federal matching
3 funds attributed to that assessment must be used to finance
4 Medicaid nursing home reimbursement payments. Only licensed nursing
5 homes and hospital long-term care units that are assessed the
6 quality assurance assessment and participate in the Medicaid
7 program are eligible for increased per diem Medicaid reimbursement
8 rates under this subdivision. A nursing home or long-term care unit
9 that is assessed the quality assurance assessment and that does not
10 pay the assessment required under subsection ~~(1)(g)~~ **(1)(h)** in
11 accordance with subdivision (c)(i) or in accordance with a written
12 payment agreement with this state shall not receive the increased
13 per diem Medicaid reimbursement rates under this subdivision until
14 all of its outstanding quality assurance assessments and any
15 penalties assessed under subdivision (f) have been paid in full.
16 This subdivision does not authorize or require the department to
17 overspend tax revenue in violation of the management and budget
18 act, 1984 PA 431, MCL 18.1101 to 18.1594.

19 (b) Except as otherwise provided under subdivision (c),
20 beginning October 1, 2005, the quality assurance assessment is
21 based on the total number of patient days of care each nursing home
22 and hospital long-term care unit provided to non-Medicare patients
23 within the immediately preceding year, must be assessed at a
24 uniform rate on October 1, 2005 and subsequently on October 1 of
25 each following year, and is payable on a quarterly basis, with the
26 first payment due 90 days after the date the assessment is
27 assessed.

28 (c) Within 30 days after September 30, 2005, the department
29 shall submit an application to the Centers for Medicare and

1 Medicaid Services to request a waiver according to 42 CFR 433.68(e)
2 to implement this subdivision as follows:

3 (i) If the waiver is approved, the quality assurance assessment
4 rate for a nursing home or hospital long-term care unit with less
5 than 40 licensed beds or with the maximum number, or more than the
6 maximum number, of licensed beds necessary to secure federal
7 approval of the application is \$2.00 per non-Medicare patient day
8 of care provided within the immediately preceding year or a rate as
9 otherwise altered on the application for the waiver to obtain
10 federal approval. If the waiver is approved, for all other nursing
11 homes and long-term care units the quality assurance assessment
12 rate is to be calculated by dividing the total statewide maximum
13 allowable assessment permitted under subsection ~~(1)(g)~~ **(1)(h)** less
14 the total amount to be paid by the nursing homes and long-term care
15 units with less than 40 licensed beds or with the maximum number,
16 or more than the maximum number, of licensed beds necessary to
17 secure federal approval of the application by the total number of
18 non-Medicare patient days of care provided within the immediately
19 preceding year by those nursing homes and long-term care units with
20 more than 39 licensed beds, but less than the maximum number of
21 licensed beds necessary to secure federal approval. The quality
22 assurance assessment, as provided under this subparagraph, must be
23 assessed in the first quarter after federal approval of the waiver
24 and must be subsequently assessed on October 1 of each following
25 year, and is payable on a quarterly basis, with the first payment
26 due 90 days after the date the assessment is assessed.

27 (ii) If the waiver is approved, continuing care retirement
28 centers are exempt from the quality assurance assessment if the
29 continuing care retirement center requires each center resident to

1 provide an initial life interest payment of \$150,000.00, on
2 average, per resident to ensure payment for that resident's
3 residency and services and the continuing care retirement center
4 utilizes all of the initial life interest payment before the
5 resident becomes eligible for medical assistance under the state's
6 Medicaid plan. As used in this subparagraph, "continuing care
7 retirement center" means a nursing care facility that provides
8 independent living services, assisted living services, and nursing
9 care and medical treatment services, in a campus-like setting that
10 has shared facilities or common areas, or both.

11 (d) Beginning May 10, 2002, the department shall increase the
12 per diem nursing home Medicaid reimbursement rates for the balance
13 of that year. For each subsequent year in which the quality
14 assurance assessment is assessed and collected, the department
15 shall maintain the Medicaid nursing home reimbursement payment
16 increase financed by the quality assurance assessment.

17 (e) The department shall implement this section in a manner
18 that complies with federal requirements necessary to ensure that
19 the quality assurance assessment qualifies for federal matching
20 funds.

21 (f) If a nursing home or a hospital long-term care unit fails
22 to pay the assessment required by subsection ~~(1)(g)~~, **(1)(h)**, the
23 department may assess the nursing home or hospital long-term care
24 unit a penalty of 5% of the assessment for each month that the
25 assessment and penalty are not paid up to a maximum of 50% of the
26 assessment. The department may also refer for collection to the
27 department of treasury past due amounts consistent with section 13
28 of 1941 PA 122, MCL 205.13.

29 (g) The Medicaid nursing home quality assurance assessment

1 fund is established in the state treasury. The department shall
2 deposit the revenue raised through the quality assurance assessment
3 with the state treasurer for deposit in the Medicaid nursing home
4 quality assurance assessment fund.

5 (h) The department shall not implement this subsection in a
6 manner that conflicts with 42 USC 1396b(w).

7 (i) The quality assurance assessment collected under
8 subsection ~~(1)(g)~~ **(1)(h)** must be prorated on a quarterly basis for
9 any licensed beds added to or subtracted from a nursing home or
10 hospital long-term care unit since the immediately preceding July
11 1. Any adjustments in payments are due on the next quarterly
12 installment due date.

13 (j) In each fiscal year governed by this subsection, Medicaid
14 reimbursement rates must not be reduced below the Medicaid
15 reimbursement rates in effect on April 1, 2002 as a direct result
16 of the quality assurance assessment collected under subsection
17 ~~(1)(g)~~ **(1)(h)**.

18 (k) The state retention amount of the quality assurance
19 assessment collected under subsection ~~(1)(g)~~ **(1)(h)** must be equal
20 to 13.2% of the federal funds generated by the nursing homes and
21 hospital long-term care units quality assurance assessment,
22 including the state retention amount. The state retention amount
23 must be appropriated each fiscal year to the department to support
24 Medicaid expenditures for long-term care services. These funds must
25 offset an identical amount of general fund/general purpose revenue
26 originally appropriated for that purpose.

27 (l) Beginning October 1, 2027, the department shall not assess
28 or collect the quality assurance assessment or apply for federal
29 matching funds. The quality assurance assessment collected under

1 subsection ~~(1)(g)~~ **(1)(h)** must not be assessed or collected after
2 September 30, 2011 if the quality assurance assessment is not
3 eligible for federal matching funds. Any portion of the quality
4 assurance assessment collected from a nursing home or hospital
5 long-term care unit that is not eligible for federal matching funds
6 must be returned to the nursing home or hospital long-term care
7 unit.

8 (12) The quality assurance dedication is an earmarked
9 assessment collected under subsection ~~(1)(h)~~ **(1)(i)**. That
10 assessment and all federal matching funds attributed to that
11 assessment must be used only for the following purpose and under
12 the following specific circumstances:

13 (a) To maintain the increased Medicaid reimbursement rate
14 increases as provided for in subdivision (c).

15 (b) The quality assurance assessment must be assessed on all
16 net patient revenue, before deduction of expenses, less Medicare
17 net revenue, as reported in the most recently available Medicare
18 cost report and is payable on a quarterly basis, with the first
19 payment due 90 days after the date the assessment is assessed. As
20 used in this subdivision, "Medicare net revenue" includes Medicare
21 payments and amounts collected for coinsurance and deductibles.

22 (c) Beginning October 1, 2002, the department shall increase
23 the hospital Medicaid reimbursement rates for the balance of that
24 year. For each subsequent year in which the quality assurance
25 assessment is assessed and collected, the department shall maintain
26 the hospital Medicaid reimbursement rate increase financed by the
27 quality assurance assessments.

28 (d) The department shall implement this section in a manner
29 that complies with federal requirements necessary to ensure that

1 the quality assurance assessment qualifies for federal matching
2 funds.

3 (e) If a hospital fails to pay the assessment required by
4 subsection ~~(1)(h)~~, **(1)(i)**, the department may assess the hospital a
5 penalty of 5% of the assessment for each month that the assessment
6 and penalty are not paid up to a maximum of 50% of the assessment.
7 The department may also refer for collection to the department of
8 treasury past due amounts consistent with section 13 of 1941 PA
9 122, MCL 205.13.

10 (f) The hospital quality assurance assessment fund is
11 established in the state treasury. The department shall deposit the
12 revenue raised through the quality assurance assessment with the
13 state treasurer for deposit in the hospital quality assurance
14 assessment fund.

15 (g) In each fiscal year governed by this subsection, the
16 quality assurance assessment must only be collected and expended if
17 Medicaid hospital inpatient DRG and outpatient reimbursement rates
18 and graduate medical education payments are not below the level of
19 rates and payments in effect on April 1, 2002 as a direct result of
20 the quality assurance assessment collected under subsection ~~(1)(h)~~,
21 **(1)(i)**, except as provided in subdivision (h).

22 (h) The quality assurance assessment collected under
23 subsection ~~(1)(h)~~ **(1)(i)** must not be assessed or collected after
24 September 30, 2011 if the quality assurance assessment is not
25 eligible for federal matching funds. Any portion of the quality
26 assurance assessment collected from a hospital that is not eligible
27 for federal matching funds must be returned to the hospital.

28 (i) The state retention amount of the quality assurance
29 assessment collected under subsection ~~(1)(h)~~ **(1)(i)** must be equal

1 to 13.2% of the federal funds generated by the hospital quality
2 assurance assessment, including the state retention amount. The
3 13.2% state retention amount described in this subdivision does not
4 apply to the Healthy Michigan plan. Beginning in the fiscal year
5 ending September 30, 2018, and for each fiscal year thereafter,
6 there is a retention amount of at least \$118,420,600.00 for each
7 fiscal year for the Healthy Michigan plan. By May 31 of each year,
8 the department, the state budget office, and the Michigan Health
9 and Hospital Association shall identify an appropriate retention
10 amount for the Healthy Michigan plan. The state retention
11 percentage must be applied proportionately to each hospital quality
12 assurance assessment program to determine the retention amount for
13 each program. The state retention amount must be appropriated each
14 fiscal year to the department to support Medicaid expenditures for
15 hospital services and therapy. These funds must offset an identical
16 amount of general fund/general purpose revenue originally
17 appropriated for that purpose.

18 (13) The department may establish a quality assurance
19 assessment to increase ambulance reimbursement as follows:

20 (a) The quality assurance assessment authorized under this
21 subsection must be used to provide reimbursement to Medicaid
22 ambulance providers. The department may promulgate rules to provide
23 the structure of the quality assurance assessment authorized under
24 this subsection and the level of the assessment.

25 (b) The department shall implement this subsection in a manner
26 that complies with federal requirements necessary to ensure that
27 the quality assurance assessment qualifies for federal matching
28 funds.

29 (c) The total annual collections by the department under this

subsection must not exceed \$20,000,000.00.

(d) The quality assurance assessment authorized under this subsection must not be collected after October 1, 2027. The quality assurance assessment authorized under this subsection must no longer be collected or assessed if the quality assurance assessment authorized under this subsection is not eligible for federal matching funds.

(e) By November 1 of each year, the department shall send a notification to each ambulance operation that will be assessed the quality assurance assessment authorized under this subsection during the year in which the notification is sent.

(14) The quality assurance assessment provided for under this section is a tax that is levied on a health facility or agency.

(15) As used in this section:

(a) "Healthy Michigan plan" means the medical assistance program described in section 105d of the social welfare act, 1939 PA 280, MCL 400.105d, that has a federal matching fund rate of not less than 90%.

(b) "Medicaid" means that term as defined in section 22207.

PART 207. FREESTANDING BIRTH CENTERS

Sec. 20701. (1) As used in this part:

(a) "Certified nurse midwife" means an individual who is licensed as a registered professional nurse under part 172 who has been granted a specialty certification in the health profession specialty field of nurse midwifery by the Michigan board of nursing under section 17210.

(b) "Freestanding birth center" means a facility that provides midwifery care for normal deliveries, well-person reproductive and sexual health care, extended postpartum care, and newborn care,

1 that is within the scope of practice of the health care provider.
2 Freestanding birth center does not include a hospital or
3 freestanding surgical outpatient facility.

4 (c) "Health care provider" means any of the following:

5 (i) A physician.

6 (ii) A physician's assistant licensed under part 170 or 175.

7 (iii) A certified nurse midwife.

8 (iv) A midwife.

9 (d) "Midwife" means that term as defined in section 17101.

10 (e) "Midwifery care" means the practice of midwifery as that
11 term is defined in section 17101 by a midwife and the practice of
12 nursing by a certified nurse midwife.

13 (f) "Physician" means that term as defined in section 17001 or
14 17501.

15 (g) "Social determinants of health" means the social and
16 economic conditions that influence individual and group differences
17 in health status.

18 (2) In addition, article 1 contains general definitions and
19 principles of construction applicable to all articles in this code
20 and part 201 contains definitions applicable to this part.

21 Sec. 20711. (1) A freestanding birth center must be licensed
22 under this article.

23 (2) "Freestanding birth center" or a similar term or
24 abbreviation must not be used to describe or refer to a health
25 facility or agency unless it is licensed by the department under
26 this article.

27 Sec. 20713. The owner, operator, and governing body of a
28 freestanding birth center licensed under this article:

29 (a) Are responsible for all phases of the operation of the

1 freestanding birth center, selection of health care providers, and
2 quality of care rendered in the freestanding birth center.

3 (b) Shall cooperate with the department in the enforcement of
4 this article and require that the health care providers and other
5 personnel working in the freestanding birth center and for whom a
6 state license or registration is required be currently licensed or
7 registered.

8 (c) Subject to sections 20719 and 20721, shall ensure that
9 health care providers are of a sufficient number to maintain safety
10 and quality of care and have the qualifications, training, and
11 skills necessary to meet operational needs and the needs of a
12 patient, considering the caseload and size of the freestanding
13 birth center.

14 Sec. 20715. Subject to this part, part 171, and any rules
15 promulgated for purposes of this part and part 171, a freestanding
16 birth center shall comply with all of the following:

17 (a) Have a plan to identify needs caused by social
18 determinants of health and, with the consent of a patient, refer
19 the patient to a support service to address the patient's needs.
20 For purposes of this subdivision, "support service" includes, but
21 is not limited to, a food assistance program, a counseling service,
22 an early childhood development resource, a housing assistance
23 program, or an intimate partner violence support group.

24 (b) Develop, implement, and enforce written policies and
25 procedures for the freestanding birth center's operations. The
26 policies and procedures must be made available to health care
27 providers and other personnel who are employed by or under contract
28 with the freestanding birth center and must comply with all of the
29 following:

1 (i) Be administered in a manner that provides quality health
2 care services in a safe environment.

3 (ii) Identify a process for hiring, credentialing, and training
4 staff.

5 (iii) Ensure that the right of a patient to informed consent and
6 to refuse treatment is upheld at every stage of care.

7 (iv) Include a process by which health care providers who are
8 employed by or under contract with the freestanding birth center
9 comply with all of the following:

10 (A) Refer a patient to services that are not directly provided
11 by the freestanding birth center, including, but not limited to,
12 outside laboratory testing services, lactation support services,
13 and childbirth education.

14 (B) Consult with another health care provider.

15 (C) Refer a patient to another health care provider.

16 (D) Transfer the care of a patient to another health care
17 provider with the informed consent of the patient.

18 (E) Initiate patient transport to a hospital described under
19 subdivision (e) when needed by calling 9-1-1 or an ambulance
20 operation or by arranging other means for patient transport.

21 (F) Notify a hospital described under subdivision (e) of the
22 freestanding birth center's license.

23 (v) Include a process by which a patient's medical record is
24 provided to another health care provider upon the patient's request
25 or if the patient is transferred as described in subparagraph
26 (iv) (D) or (E).

27 (c) Ensure that services are provided in a community setting
28 with adequate space for furnishings, equipment, supplies, and
29 accommodations for patients and the families of patients.

1 (d) Ensure that a patient is notified of each health care
2 provider within the freestanding birth center who maintains a
3 malpractice liability insurance policy and each health care
4 provider who does not.

5 (e) Identify a hospital to which a patient may be transferred
6 from the freestanding birth center and that is in close proximity
7 to the freestanding birth center.

8 Sec. 20717. (1) A freestanding birth center shall not do any
9 of the following:

10 (a) Except as otherwise provided in this subdivision, use
11 general or regional anesthesia, including epidural anesthesia.
12 Local anesthesia, nitrous oxide, and other forms of pain relief may
13 be administered at the freestanding birth center if all of the
14 following are met:

15 (i) It is determined to be clinically necessary by a health
16 care provider.

17 (ii) It is administered by a health care provider who is acting
18 within the scope of the health care provider's practice.

19 (iii) It is used according to the freestanding birth center's
20 policies and procedures and according to the professionally
21 recognized standards of practice described in section 20727.

22 (b) Use pharmacologic agents to induce, stimulate, or augment
23 labor, or bring about cervical ripening, during the first or second
24 stages of labor or before labor. A freestanding birth center may
25 use pharmacologic agents during the delivery of a placenta and in
26 the postpartum period.

27 (c) Perform surgical procedures other than the following:

28 (i) Episiotomies.

29 (ii) Repairs of perineal lacerations.

1 (iii) Circumcisions.

2 (iv) Newborn frenulum revisions.

3 (v) Any other surgical procedure that is authorized by the
4 department by rule.

5 (d) Use vacuum extractors or vaginal forceps.

6 (e) Except as otherwise provided in subsection (3), permit a
7 patient to deliver at the freestanding birth center if any of the
8 following limiting factors apply:

9 (i) Fetal gestation is less than 36 weeks and 0 days.

10 (ii) Labor has not started before fetal gestation of 42 weeks
11 and 1 day.

12 (iii) Any other limiting factor established by rule under
13 section 20727 is present in the patient or the clinical needs of
14 the patient fall outside the scope of practice of a health care
15 provider at the freestanding birth center.

16 (2) A freestanding birth center shall develop policies and
17 procedures for assessing a patient seeking perinatal care to
18 determine whether it is appropriate for the patient to deliver at
19 the freestanding birth center.

20 (3) A freestanding birth center may permit a patient who meets
21 a limiting factor described in subsection (1) or in rules
22 promulgated under section 20727 to deliver at the freestanding
23 birth center if there is insufficient time to convey the
24 responsibility for the care of the patient to a hospital before the
25 fetus is born.

26 Sec. 20719. (1) A freestanding birth center shall provide
27 quality perinatal care that promotes physiologic birth, including,
28 but not limited to, all of the following:

29 (a) Respectful, supportive care during labor, for which the

1 patient has provided consent.

2 (b) Minimization of stress-inducing stimuli.

3 (c) Freedom of movement.

4 (d) Oral intake, as appropriate.

5 (e) Availability of nonpharmacologic pain relief methods.

6 (f) Regular and appropriate assessment of the patient and
7 fetus throughout labor.

8 (2) The freestanding birth center shall provide a patient, at
9 the inception of care, with all of the following information:

10 (a) A written description of the training, philosophy of
11 practice, qualifications, and license or specialty certification of
12 a health care provider who is employed by or under contract with
13 the freestanding birth center.

14 (b) A written description of the freestanding birth center's
15 patient practice policies.

16 (c) The complaint process for state and national credentialing
17 organizations for a health care provider who is employed by or
18 under contract with the freestanding birth center.

19 (3) The freestanding birth center shall ensure that a health
20 care provider is present or available to the patient at all times
21 when a patient is admitted to the freestanding birth center and
22 until the patient and the newborn are determined to be clinically
23 stable, based on criteria established by the freestanding birth
24 center.

25 (4) The freestanding birth center shall ensure that a health
26 care provider monitors the progress of a patient's labor and the
27 condition of the patient and fetus or newborn at intervals
28 established in the freestanding birth center's policies and
29 procedures.

1 (5) Subject to this subsection, the freestanding birth center
2 shall have the personnel and equipment necessary to ensure patient
3 safety, meet the demands for services that are routinely provided
4 in the freestanding birth center, provide coverage during periods
5 of high demand or in the case of an emergency, and respond to
6 patient health emergencies that may arise while a patient is
7 receiving services in the freestanding birth center, including, but
8 not limited to, basic life support, neonatal resuscitation, and the
9 initial management of postpartum complications. The freestanding
10 birth center shall ensure that at least 2 individuals are on the
11 premises and immediately available during a delivery who are
12 certified in basic life support from the American Heart Association
13 or an equivalent organization as determined by the department and
14 are certified in neonatal resuscitation from the American Academy
15 of Pediatrics, the American Heart Association, or an equivalent
16 organization, as determined by the department.

17 Sec. 20721. (1) A freestanding birth center shall not
18 discharge a patient from the birth center until the patient is
19 clinically stable and has met discharge criteria established by the
20 freestanding birth center.

21 (2) A freestanding birth center shall ensure that a program
22 for follow-up care and postpartum evaluation is planned for each
23 patient.

24 (3) A freestanding birth center shall ensure that both of the
25 following are available to a patient of the freestanding birth
26 center 24 hours a day and 7 days a week:

27 (a) Consultation with a health care provider by telephone.

28 (b) A health care provider or other personnel who are
29 available on call to provide intrapartum care to the patient.

1 Sec. 20722. (1) The department shall not require a
2 freestanding birth center to do any of the following:

3 (a) Maintain a collaborative agreement with another health
4 facility or agency or with a health care provider who is not
5 employed by or under contract with a freestanding birth center.

6 (b) Provide care other than midwifery care.

7 (2) Subsection (1) does not limit a freestanding birth center
8 from maintaining a collaborative agreement or providing care other
9 than midwifery care as described under subsection (1).

10 Sec. 20723. (1) A freestanding birth center shall recommend
11 that health care providers and other personnel who are employed by
12 or under contract with the freestanding birth center receive an
13 annual vaccination against influenza and recommend that health care
14 providers and other personnel who are employed by or under contract
15 with the freestanding birth center are fully vaccinated against
16 COVID-19.

17 (2) A freestanding birth center shall provide evidence to the
18 department, on request, of immunization, positive titer result, or
19 documentation of refusal for health care providers and other
20 personnel who are employed by or under contract with the
21 freestanding birth center, for each of the following:

22 (a) Rubella.

23 (b) Tdap.

24 (c) Hepatitis B.

25 (d) Varicella.

26 (e) Against any other disease required by the department by
27 rule.

28 (3) A freestanding birth center shall conduct tuberculosis
29 testing before employing or entering into a contract with an

1 individual who will work in the freestanding birth center.

2 Sec. 20727. The department, in consultation with
3 representatives of freestanding birth centers, the Michigan
4 Affiliate of the American College of Nurse-Midwives, the Michigan
5 Midwives Association, the Michigan board of nursing, the Michigan
6 board of licensed midwifery, and the State of Birth Justice, shall
7 promulgate rules to implement this part. The rules must include at
8 least all of the following:

9 (a) Professionally recognized standards of practice based on
10 standards issued by the American Association of Birth Centers, the
11 American College of Nurse-Midwives, and the National Association of
12 Certified Professional Midwives. If any of the standards described
13 in this subdivision are revised after the effective date of the
14 amendatory act that added this section, the department shall take
15 notice of the revision. The department, in consultation with the
16 persons described in this section, may promulgate rules to
17 incorporate any revision by reference.

18 (b) Limiting factors that, when present, would preclude a
19 patient from delivering at the freestanding birth center because
20 the patient is not considered to be a patient with a normal
21 delivery. The rules must allow a freestanding birth center to
22 develop policies that would include additional limiting factors to
23 preclude delivery at the freestanding birth center.

24 Sec. 20729. Notwithstanding part 201, the department shall not
25 enforce this part or any rules promulgated for purposes of this
26 part, including, but not limited to, the requirement that a
27 freestanding birth center be licensed under this article, until 2
28 years after the effective date of the amendatory act that added
29 this part.

1 Sec. 20735. This part does not require new or additional
2 third-party reimbursement or mandated worker's compensation
3 benefits for services rendered at a freestanding birth center.

4 Sec. 22224c. A freestanding birth center as that term is
5 defined in section 20701 is not required to obtain a certificate of
6 need.