HOUSE BILL NO. 5636

April 17, 2024, Introduced by Rep. Pohutsky and referred to the Committee on Health Policy.

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:

Sec. 2811. The department shall prescribe the form and content of vital records and certificates, which, ~~shall~~ **except as otherwise provided in this part, must** conform as nearly as possible to recognized national standardized forms including, as required to comply with federal law, requirements for the entry of ~~social security~~ **Social Security** numbers.

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

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

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

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

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

(c) If the live birth occurs in a home, the place of birth

1 **must be listed as "home".**

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

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

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

8 (*i*) A physician.

9 (*ii*) A certified nurse midwife.

10 (*iii*) As identified in rules promulgated under section 17117,
11 another appropriate health professional licensed, registered, or
12 otherwise authorized to engage in a health profession under this
13 article.

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

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

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

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

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

1 (2) For purposes of this part, practice of midwifery does not
2 include either of the following:
3 (a) The practice of medicine or osteopathic medicine and
4 surgery.
5 (b) The practice of nursing, including the practice of nursing
6 with a specialty certification in the **health** profession specialty
7 field of nurse midwifery under part 172.
8 (3) In addition to the definitions of this part, article 1
9 contains general definitions and principles of construction
10 applicable to all articles in this code and part 161 contains
11 definitions applicable to this part.
12 Sec. 20104. (1) Except as otherwise provided in part 221,
13 "certification" means the issuance of a document by the department
14 to a health facility or agency attesting to the fact that the
15 health facility or agency meets both of the following:
16 (a) It complies with applicable statutory and regulatory
17 requirements and standards.
18 (b) It is eligible to participate as a provider of care and
19 services in a specific federal or state health program.
20 (2) "Consumer" means a person who is not a health care
21 provider as that term is defined in 42 USC 300jj.
22 (3) "County medical care facility" means a nursing care
23 facility, other than a hospital long-term care unit, that provides
24 organized nursing care and medical treatment to 7 or more unrelated
25 individuals who are suffering or recovering from illness, injury,
26 or infirmity and that is owned by a county or counties.
27 (4) "Department" means the department of licensing and
28 regulatory affairs.
29 (5) "Direct access" means access to a patient or resident or

1 to a patient's or resident's property, financial information,
2 medical records, treatment information, or any other identifying
3 information.
4 (6) "Director" means the director of the department.
5 **(7) "Freestanding birth center" means that term as defined in**
6 **section 20701.**
7 **(8)** ~~(7)~~ "Freestanding surgical outpatient facility" means a
8 facility, other than the office of a physician, dentist,
9 podiatrist, or other private practice office, offering a surgical
10 procedure and related care that in the opinion of the attending
11 physician can be safely performed without requiring overnight
12 inpatient hospital care. Freestanding surgical outpatient facility
13 does not include a surgical outpatient facility owned by and
14 operated as part of a hospital.
15 **(9)** ~~(8)~~ "Good moral character" means that term as defined in,
16 and determined under, 1974 PA 381, MCL 338.41 to 338.47.
17 Sec. 20106. (1) "Health facility or agency", except as
18 provided in section 20115, means:
19 (a) An ambulance operation, aircraft transport operation,
20 nontransport prehospital life support operation, or medical first
21 response service.
22 (b) A county medical care facility.
23 (c) A freestanding surgical outpatient facility.
24 (d) A health maintenance organization.
25 (e) A home for the aged.
26 (f) A hospital.
27 (g) A nursing home.
28 (h) A hospice.
29 (i) A hospice residence.

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

(k) A freestanding birth center.

(2) "Health maintenance organization" means that term as defined in section 3501 of the insurance code of 1956, 1956 PA 218, MCL 500.3501.

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

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

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

1 (6) "Hospital long-term care unit" means a nursing care
2 facility, owned and operated by and as part of a hospital,
3 providing organized nursing care and medical treatment to 7 or more
4 unrelated individuals suffering or recovering from illness, injury,
5 or infirmity.
6 Sec. 20161. (1) The department shall assess fees and other
7 assessments for health facility and agency licenses and
8 certificates of need on an annual basis as provided in this
9 article. Until October 1, 2027, except as otherwise provided in
10 this article, fees and assessments must be paid as provided in the
11 following schedule:
12 (a) Freestanding surgical
13 outpatient facilities..............$500.00 per facility license.
14 (b) Hospitals .... $500.00 per facility license and
15 $10.00 per licensed bed.
16 (c) Nursing homes, county
17 medical care facilities, and
18 hospital long-term care units .....$500.00 per facility license and
19 $3.00 per licensed bed over 100
20 licensed beds.
21 (d) Homes for the aged ...... $500.00 per facility license and
22 $6.27 per licensed bed.
23 (e) Hospice agencies .... $500.00 per agency license.
24 (f) Hospice residences ...... $500.00 per facility license and
25 $5.00 per licensed bed.
26 **(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.

(i) ~~(h)~~ Subject to subsection (12), quality assurance assessment for hospitals .... at a fixed or variable rate that generates funds not more than the maximum allowable under the federal matching requirements, after consideration for the amounts in subsection (12)(a) and (i).

(j) ~~(i)~~ Initial licensure application fee for subdivisions (a), (b), (c), (d), (e), ~~and~~ (f), **and (g)** .... $2,000.00 per initial license.

(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:

(a) "Title XVIII" means title XVIII of the social security act, 42 USC 1395 to 1395*lll*.

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

(3) All of the following apply to the assessment under this section for certificates of need:

1 (a) The base fee for a certificate of need is $3,000.00 for
2 each application. For a project requiring a projected capital
3 expenditure of more than $500,000.00 but less than $4,000,000.00,
4 an additional fee of $5,000.00 is added to the base fee. For a
5 project requiring a projected capital expenditure of $4,000,000.00
6 or more but less than $10,000,000.00, an additional fee of
7 $8,000.00 is added to the base fee. For a project requiring a
8 projected capital expenditure of $10,000,000.00 or more, an
9 additional fee of $12,000.00 is added to the base fee.
10 (b) In addition to the fees under subdivision (a), the
11 applicant shall pay $3,000.00 for any designated complex project
12 including a project scheduled for comparative review or for a
13 consolidated licensed health facility application for acquisition
14 or replacement.
15 (c) If required by the department, the applicant shall pay
16 $1,000.00 for a certificate of need application that receives
17 expedited processing at the request of the applicant.
18 (d) The department shall charge a fee of $500.00 to review any
19 letter of intent requesting or resulting in a waiver from
20 certificate of need review and any amendment request to an approved
21 certificate of need.
22 (e) A health facility or agency that offers certificate of
23 need covered clinical services shall pay $100.00 for each
24 certificate of need approved covered clinical service as part of
25 the certificate of need annual survey at the time of submission of
26 the survey data.
27 (f) Except as otherwise provided in this section, the
28 department shall use the fees collected under this subsection only
29 to fund the certificate of need program. Funds remaining in the

certificate of need program at the end of the fiscal year do not lapse to the general fund but remain available to fund the certificate of need program in subsequent years.

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

(5) Fees described in this section are payable to the department at the time an application for a license, permit, or certificate is submitted. If an application for a license, permit, or certificate is denied or if a license, permit, or certificate is revoked before its expiration date, the department shall not refund fees paid to the department.

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

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

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

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

(10) Except as otherwise provided in this section, the fees and assessments collected under this section must be deposited in the state treasury, to the credit of the general fund. The

1 department may use the unreserved fund balance in fees and
2 assessments for the criminal history check program required under
3 this article.
4 (11) The quality assurance assessment collected under
5 subsection ~~(1)(g)~~ **(1)(h)** and all federal matching funds attributed
6 to that assessment must be used only for the following purposes and
7 under the following specific circumstances:
8 (a) The quality assurance assessment and all federal matching
9 funds attributed to that assessment must be used to finance
10 Medicaid nursing home reimbursement payments. Only licensed nursing
11 homes and hospital long-term care units that are assessed the
12 quality assurance assessment and participate in the Medicaid
13 program are eligible for increased per diem Medicaid reimbursement
14 rates under this subdivision. A nursing home or long-term care unit
15 that is assessed the quality assurance assessment and that does not
16 pay the assessment required under subsection ~~(1)(g)~~ **(1)(h)** in
17 accordance with subdivision (c)(*i*) or in accordance with a written
18 payment agreement with this state shall not receive the increased
19 per diem Medicaid reimbursement rates under this subdivision until
20 all of its outstanding quality assurance assessments and any
21 penalties assessed under subdivision (f) have been paid in full.
22 This subdivision does not authorize or require the department to
23 overspend tax revenue in violation of the management and budget
24 act, 1984 PA 431, MCL 18.1101 to 18.1594.
25 (b) Except as otherwise provided under subdivision (c),
26 beginning October 1, 2005, the quality assurance assessment is
27 based on the total number of patient days of care each nursing home
28 and hospital long-term care unit provided to non-Medicare patients
29 within the immediately preceding year, must be assessed at a

uniform rate on October 1, 2005 and subsequently on October 1 of each following year, and is payable on a quarterly basis, with the first payment due 90 days after the date the assessment is assessed.

(c) Within 30 days after September 30, 2005, the department shall submit an application to the Centers for Medicare and Medicaid Services to request a waiver according to 42 CFR 433.68(e) to implement this subdivision as follows:

(*i*) If the waiver is approved, the quality assurance assessment rate for a nursing home or hospital long-term care unit with less than 40 licensed beds or with the maximum number, or more than the maximum number, of licensed beds necessary to secure federal approval of the application is $2.00 per non-Medicare patient day of care provided within the immediately preceding year or a rate as otherwise altered on the application for the waiver to obtain federal approval. If the waiver is approved, for all other nursing homes and long-term care units the quality assurance assessment rate is to be calculated by dividing the total statewide maximum allowable assessment permitted under subsection ~~(1)(g)~~ **(1)(h)** less the total amount to be paid by the nursing homes and long-term care units with less than 40 licensed beds or with the maximum number, or more than the maximum number, of licensed beds necessary to secure federal approval of the application by the total number of non-Medicare patient days of care provided within the immediately preceding year by those nursing homes and long-term care units with more than 39 licensed beds, but less than the maximum number of licensed beds necessary to secure federal approval. The quality assurance assessment, as provided under this subparagraph, must be assessed in the first quarter after federal approval of the waiver

1 and must be subsequently assessed on October 1 of each following
2 year, and is payable on a quarterly basis, with the first payment
3 due 90 days after the date the assessment is assessed.
4 (*ii*) If the waiver is approved, continuing care retirement
5 centers are exempt from the quality assurance assessment if the
6 continuing care retirement center requires each center resident to
7 provide an initial life interest payment of $150,000.00, on
8 average, per resident to ensure payment for that resident's
9 residency and services and the continuing care retirement center
10 utilizes all of the initial life interest payment before the
11 resident becomes eligible for medical assistance under the state's
12 Medicaid plan. As used in this subparagraph, "continuing care
13 retirement center" means a nursing care facility that provides
14 independent living services, assisted living services, and nursing
15 care and medical treatment services, in a campus-like setting that
16 has shared facilities or common areas, or both.
17 (d) Beginning May 10, 2002, the department shall increase the
18 per diem nursing home Medicaid reimbursement rates for the balance
19 of that year. For each subsequent year in which the quality
20 assurance assessment is assessed and collected, the department
21 shall maintain the Medicaid nursing home reimbursement payment
22 increase financed by the quality assurance assessment.
23 (e) The department shall implement this section in a manner
24 that complies with federal requirements necessary to ensure that
25 the quality assurance assessment qualifies for federal matching
26 funds.
27 (f) If a nursing home or a hospital long-term care unit fails
28 to pay the assessment required by subsection ~~(1)(g),~~ **(1)(h)**, the
29 department may assess the nursing home or hospital long-term care

unit a penalty of 5% of the assessment for each month that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department may also refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(g) The Medicaid nursing home quality assurance assessment fund is established in the state treasury. The department shall deposit the revenue raised through the quality assurance assessment with the state treasurer for deposit in the Medicaid nursing home quality assurance assessment fund.

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

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

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

(k) The state retention amount of the quality assurance assessment collected under subsection ~~(1)(g)~~ **(1)(h)** must be equal to 13.2% of the federal funds generated by the nursing homes and hospital long-term care units quality assurance assessment, including the state retention amount. The state retention amount must be appropriated each fiscal year to the department to support

Medicaid expenditures for long-term care services. These funds must offset an identical amount of general fund/general purpose revenue originally appropriated for that purpose.

(*l*) Beginning October 1, 2027, the department shall not assess or collect the quality assurance assessment or apply for federal matching funds. The quality assurance assessment collected under subsection ~~(1)(g)~~ **(1)(h)** must not be assessed or collected after September 30, 2011 if the quality assurance assessment is not eligible for federal matching funds. Any portion of the quality assurance assessment collected from a nursing home or hospital long-term care unit that is not eligible for federal matching funds must be returned to the nursing home or hospital long-term care unit.

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

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

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

(c) Beginning October 1, 2002, the department shall increase the hospital Medicaid reimbursement rates for the balance of that

year. For each subsequent year in which the quality assurance assessment is assessed and collected, the department shall maintain the hospital Medicaid reimbursement rate increase financed by the quality assurance assessments.

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

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

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

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

(h) The quality assurance assessment collected under subsection ~~(1)(h)~~ **(1)(i)** must not be assessed or collected after

September 30, 2011 if the quality assurance assessment is not eligible for federal matching funds. Any portion of the quality assurance assessment collected from a hospital that is not eligible for federal matching funds must be returned to the hospital.

(i) The state retention amount of the quality assurance assessment collected under subsection ~~(1)(h)~~ **(1)(i)** must be equal to 13.2% of the federal funds generated by the hospital quality assurance assessment, including the state retention amount. The 13.2% state retention amount described in this subdivision does not apply to the Healthy Michigan plan. Beginning in the fiscal year ending September 30, 2018, and for each fiscal year thereafter, there is a retention amount of at least $118,420,600.00 for each fiscal year for the Healthy Michigan plan. By May 31 of each year, the department, the state budget office, and the Michigan Health and Hospital Association shall identify an appropriate retention amount for the Healthy Michigan plan. The state retention percentage must be applied proportionately to each hospital quality assurance assessment program to determine the retention amount for each program. The state retention amount must be appropriated each fiscal year to the department to support Medicaid expenditures for hospital services and therapy. These funds must offset an identical amount of general fund/general purpose revenue originally appropriated for that purpose.

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

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

1 this subsection and the level of the assessment.
2 (b) The department shall implement this subsection in a manner
3 that complies with federal requirements necessary to ensure that
4 the quality assurance assessment qualifies for federal matching
5 funds.
6 (c) The total annual collections by the department under this
7 subsection must not exceed $20,000,000.00.
8 (d) The quality assurance assessment authorized under this
9 subsection must not be collected after October 1, 2027. The quality
10 assurance assessment authorized under this subsection must no
11 longer be collected or assessed if the quality assurance assessment
12 authorized under this subsection is not eligible for federal
13 matching funds.
14 (e) By November 1 of each year, the department shall send a
15 notification to each ambulance operation that will be assessed the
16 quality assurance assessment authorized under this subsection
17 during the year in which the notification is sent.
18 (14) The quality assurance assessment provided for under this
19 section is a tax that is levied on a health facility or agency.
20 (15) As used in this section:
21 (a) "Healthy Michigan plan" means the medical assistance
22 program described in section 105d of the social welfare act, 1939
23 PA 280, MCL 400.105d, that has a federal matching fund rate of not
24 less than 90%.
25 (b) "Medicaid" means that term as defined in section 22207.
26 **PART 207. FREESTANDING BIRTH CENTERS**
27 **Sec. 20701. (1) As used in this part:**
28 **(a) "Certified nurse midwife" means an individual who is**
29 **licensed as a registered professional nurse under part 172 who has**

1 been granted a specialty certification in the health profession
2 specialty field of nurse midwifery by the Michigan board of nursing
3 under section 17210.
4 (b) "Freestanding birth center" means a facility that provides
5 midwifery care for normal deliveries, well-person reproductive and
6 sexual health care, extended postpartum care, and newborn care,
7 that is within the scope of practice of the health care provider.
8 Freestanding birth center does not include a hospital or
9 freestanding surgical outpatient facility or a facility owned by
10 and operated as part of a hospital or freestanding surgical
11 outpatient facility.
12 (c) "Health care provider" means any of the following:
13 (*i*) A physician.
14 (*ii*) A physician's assistant licensed under part 170 or 175.
15 (*iii*) A certified nurse midwife.
16 (*iv*) A midwife.
17 (d) "Midwife" means that term as defined in section 17101.
18 (e) "Midwifery care" means the practice of midwifery as that
19 term is defined in section 17101 by a midwife and the practice of
20 nursing by a certified nurse midwife.
21 (f) "Physician" means that term as defined in section 17001 or
22 17501.
23 (g) "Social determinants of health" means the social and
24 economic conditions that influence individual and group differences
25 in health status.
26 (2) In addition, article 1 contains general definitions and
27 principles of construction applicable to all articles in this code
28 and part 201 contains definitions applicable to this part.
29 Sec. 20711. (1) A freestanding birth center must be licensed

1 under this article.
2 (2) "Freestanding birth center" or a similar term or
3 abbreviation must not be used to describe or refer to a health
4 facility or agency unless it is licensed by the department under
5 this article.
6 Sec. 20713. The owner, operator, and governing body of a
7 freestanding birth center licensed under this article:
8 (a) Are responsible for all phases of the operation of the
9 freestanding birth center, selection of health care providers, and
10 quality of care rendered in the freestanding birth center.
11 (b) Shall cooperate with the department in the enforcement of
12 this article and require that the health care providers and other
13 personnel working in the freestanding birth center and for whom a
14 state license or registration is required be currently licensed or
15 registered.
16 (c) Subject to section 20719, shall ensure that health care
17 providers are of a sufficient number to maintain safety and quality
18 of care and have the qualifications, training, and skills necessary
19 to meet operational needs and the needs of a patient, considering
20 the caseload and size of the freestanding birth center.
21 Sec. 20715. Subject to this part, part 171, and any rules
22 promulgated for purposes of this part and part 171, a freestanding
23 birth center shall comply with all of the following:
24 (a) Have a plan to identify needs caused by social
25 determinants of health and, with the consent of a patient, refer
26 the patient to a support service to address the patient's needs.
27 For purposes of this subdivision, "support service" includes, but
28 is not limited to, a food assistance program, a counseling service,
29 an early childhood development resource, a housing assistance

1 program, or an intimate partner violence support group.
2 (b) Develop, implement, and enforce written policies and
3 procedures for the freestanding birth center's operations. The
4 policies and procedures must be made available to health care
5 providers and other personnel who are employed by or under contract
6 with the freestanding birth center and must comply with all of the
7 following:
8 (*i*) Be administered in a manner that provides quality health
9 care services in a safe environment.
10 (*ii*) Identify a process for hiring, credentialing, and training
11 staff.
12 (*iii*) Ensure that the right of a patient to informed consent and
13 to refuse treatment is upheld at every stage of care.
14 (*iv*) Include a process by which health care providers who are
15 employed by or under contract with the freestanding birth center
16 comply with all of the following:
17 (A) Refer a patient to services that are not directly provided
18 by the freestanding birth center, including, but not limited to,
19 outside laboratory testing services, lactation support services,
20 and childbirth education.
21 (B) Consult with another health care provider.
22 (C) Refer a patient to another health care provider.
23 (D) Transfer the care of a patient to another health care
24 provider with the informed consent of the patient.
25 (E) Initiate patient transport when needed by calling 9-1-1 or
26 an ambulance operation or by arranging other means for patient
27 transport.
28 (c) Ensure that services are provided in a community setting
29 with adequate space for furnishings, equipment, supplies, and

1 accommodations for patients and the families of patients.
2 (d) Ensure that a patient is notified of each health care
3 provider within the freestanding birth center who maintains a
4 malpractice liability insurance policy and each health care
5 provider who does not.
6 Sec. 20717. (1) A freestanding birth center shall not do any
7 of the following:
8 (a) Except as otherwise provided in this subdivision, use
9 general or regional anesthesia, including epidural anesthesia.
10 Local anesthesia, nitrous oxide, and other forms of pain relief may
11 be administered at the freestanding birth center if all of the
12 following are met:
13 (*i*) It is determined to be clinically necessary by a health
14 care provider.
15 (*ii*) It is administered by a health care provider who is acting
16 within the scope of the health care provider's practice.
17 (*iii*) It is used according to the freestanding birth center's
18 policies and procedures and according to the professionally
19 recognized standards of practice described in section 20727.
20 (b) Use pharmacologic agents during the delivery of a placenta
21 and in the postpartum period.
22 (c) Perform surgical procedures other than the following:
23 (*i*) Episiotomies.
24 (*ii*) Repairs of perineal lacerations.
25 (*iii*) Circumcisions.
26 (*iv*) Newborn frenulum revisions.
27 (*v*) Any other surgical procedure that is authorized by the
28 department by rule.
29 (d) Use vacuum extractors or vaginal forceps.

1 **(e) Except as otherwise provided in subsection (3), permit a**
2 **patient to deliver at the freestanding birth center if any of the**
3 **following limiting factors apply:**
4 **(*i*) Fetal gestation is less than 36 weeks and 0 days.**
5 **(*ii*) Labor has not started before fetal gestation of 42 weeks**
6 **and 1 day.**
7 **(*iii*) Any other limiting factor established by rule under**
8 **section 20727 is present in the patient or the clinical needs of**
9 **the patient fall outside the scope of practice of a health care**
10 **provider at the freestanding birth center.**
11 **(2) A freestanding birth center shall develop policies and**
12 **procedures for assessing a patient seeking perinatal care to**
13 **determine whether it is appropriate for the patient to deliver at**
14 **the freestanding birth center.**
15 **(3) A freestanding birth center may permit a patient who meets**
16 **a limiting factor described in subsection (1) or in rules**
17 **promulgated under section 20727 to deliver at the freestanding**
18 **birth center if there is insufficient time to convey the**
19 **responsibility for the care of the patient to a hospital before the**
20 **fetus is born.**
21 **Sec. 20719. (1) A freestanding birth center shall provide**
22 **quality perinatal care that promotes physiologic birth, including,**
23 **but not limited to, all of the following:**
24 **(a) Respectful, supportive care during labor, for which the**
25 **patient has provided consent.**
26 **(b) Minimization of stress-inducing stimuli.**
27 **(c) Freedom of movement.**
28 **(d) Oral intake, as appropriate.**
29 **(e) Availability of nonpharmacologic pain relief methods.**

1 **(f) Regular and appropriate assessment of the patient and**
2 **fetus throughout labor.**
3 **(2) The freestanding birth center shall provide a patient, at**
4 **the inception of care, with all of the following information:**
5 **(a) A written description of the training, philosophy of**
6 **practice, qualifications, and license or specialty certification of**
7 **a health care provider who is employed by or under contract with**
8 **the freestanding birth center.**
9 **(b) A written description of the freestanding birth center's**
10 **patient practice policies.**
11 **(c) Whether a complaint process for state and national**
12 **credentialing organizations for a health care provider who is**
13 **employed by or under contract with the freestanding birth center is**
14 **available.**
15 **(3) The freestanding birth center shall ensure that a health**
16 **care provider is present or available to the patient at all times**
17 **when a patient is admitted to the freestanding birth center and**
18 **until the patient and the newborn are determined to be clinically**
19 **stable, based on criteria established by the freestanding birth**
20 **center.**
21 **(4) The freestanding birth center shall ensure that a health**
22 **care provider monitors the progress of a patient's labor and the**
23 **condition of the patient and fetus or newborn at intervals**
24 **established in the freestanding birth center's policies and**
25 **procedures.**
26 **(5) Subject to this subsection, the freestanding birth center**
27 **shall have the personnel and equipment necessary to ensure patient**
28 **safety, meet the demands for services that are routinely provided**
29 **in the freestanding birth center, provide coverage during periods**

1 of high demand or in the case of an emergency, and respond to
2 patient health emergencies that may arise while a patient is
3 receiving services in the freestanding birth center, including, but
4 not limited to, basic life support, neonatal resuscitation, and the
5 initial management of postpartum complications. The freestanding
6 birth center shall ensure that at least 2 individuals are on the
7 premises and immediately available during a delivery who are
8 certified in basic life support from the American Heart Association
9 or an equivalent organization as determined by the department and
10 are certified in neonatal resuscitation from the American Academy
11 of Pediatrics, the American Heart Association, or an equivalent
12 organization, as determined by the department.
13 Sec. 20721. (1) A freestanding birth center shall not
14 discharge a patient from the birth center until the patient is
15 clinically stable and has met discharge criteria established by the
16 freestanding birth center.
17 (2) A freestanding birth center shall ensure that a program
18 for follow-up care and postpartum evaluation is planned for each
19 patient.
20 (3) A freestanding birth center shall ensure that both of the
21 following are available to a patient of the freestanding birth
22 center 24 hours a day and 7 days a week:
23 (a) Consultation with a health care provider by telephone.
24 (b) A health care provider or other personnel who are
25 available on call to provide intrapartum care to the patient.
26 Sec. 20722. The department shall not require a freestanding
27 birth center to do any of the following:
28 (a) Maintain a collaborative agreement with another health
29 facility or agency or with a health care provider who is not

1 **employed by or under contract with a freestanding birth center.**
2 **(b) Provide care other than midwifery care.**
3 **Sec. 20723. (1) A freestanding birth center shall recommend**
4 **that health care providers and other personnel who are employed by**
5 **or under contract with the freestanding birth center receive an**
6 **annual vaccination against influenza and recommend that health care**
7 **providers and other personnel who are employed by or under contract**
8 **with the freestanding birth center are fully vaccinated against**
9 **COVID-19.**
10 **(2) A freestanding birth center shall provide evidence to the**
11 **department, on request, of immunization, positive titer result, or**
12 **documentation of refusal for health care providers and other**
13 **personnel who are employed by or under contract with the**
14 **freestanding birth center, for each of the following:**
15 **(a) Rubella.**
16 **(b) Tdap.**
17 **(c) Hepatitis B.**
18 **(d) Varicella.**
19 **(3) A freestanding birth center shall conduct tuberculosis**
20 **testing before employing or entering into a contract with an**
21 **individual who will work in the freestanding birth center.**
22 **Sec. 20727. The department, in consultation with**
23 **representatives of freestanding birth centers, the Michigan**
24 **Affiliate of the American College of Nurse-Midwives, the Michigan**
25 **Midwives Association, the Michigan board of nursing, the Michigan**
26 **board of licensed midwifery, and the State of Birth Justice, shall**
27 **promulgate rules to implement this part. The rules must include at**
28 **least all of the following:**
29 **(a) Professionally recognized standards of practice based on**

1 standards issued by the American Association of Birth Centers, the
2 American College of Nurse-Midwives, and the National Association of
3 Certified Professional Midwives. If any of the standards described
4 in this subdivision are revised after the effective date of the
5 amendatory act that added this section, the department shall take
6 notice of the revision. The department, in consultation with the
7 persons described in this section, may promulgate rules to
8 incorporate any revision by reference.
9 (b) Limiting factors that, when present, would preclude a
10 patient from delivering at the freestanding birth center because
11 the patient is not considered to be a patient with a normal
12 delivery. The rules must allow a freestanding birth center to
13 develop policies that would include additional limiting factors to
14 preclude delivery at the freestanding birth center.
15 Sec. 22224c. A freestanding birth center as that term is
16 defined in section 20701 is not required to obtain a certificate of
17 need.