

**SUBSTITUTE FOR  
SENATE BILL NO. 254**

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 7333 and 16221 (MCL 333.7333 and 333.16221),  
section 7333 as amended by 2018 PA 34 and section 16221 as amended  
by 2018 PA 463.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 7333. (1) As used in this section, "good faith" means the  
2       prescribing or dispensing of a controlled substance by a  
3       practitioner licensed under section 7303 in the regular course of  
4       professional treatment to or for an individual who is under  
5       treatment by the practitioner for a pathology or condition other  
6       than that individual's physical or psychological dependence upon or  
7       addiction to a controlled substance, except as provided in this



1 article. Application of good faith to a pharmacist means the  
 2 dispensing of a controlled substance pursuant to a prescriber's  
 3 order which, in the professional judgment of the pharmacist, is  
 4 lawful. The pharmacist shall be guided by nationally accepted  
 5 professional standards including, but not limited to, all of the  
 6 following, in making the judgment:

7 (a) Lack of consistency in the doctor-patient relationship.

8 (b) Frequency of prescriptions for the same drug by 1  
 9 prescriber for larger numbers of patients.

10 (c) Quantities beyond those normally prescribed for the same  
 11 drug.

12 (d) Unusual dosages.

13 (e) Unusual geographic distances between patient, pharmacist,  
 14 and prescriber.

15 (f) **Receipt of a prescription on a prescription form after the**  
 16 **date on which the requirement in section 17754 to electronically**  
 17 **transmit a prescription applies.**

18 (2) Except as otherwise provided in this section, a  
 19 practitioner, in good faith, may dispense a controlled substance  
 20 included in schedule 2 **that is a prescription drug as determined**  
 21 **under section 503(b) of the federal food, drug, and cosmetic act,**  
 22 **21 USC 353, or section 17708,** upon receipt of ~~a~~ **either of the**  
 23 **following:**

24 (a) **A** prescription of a practitioner licensed under section  
 25 7303 on a prescription form. ~~A practitioner may issue more~~ **More**  
 26 than 1 prescription for a controlled substance ~~included in schedule~~  
 27 **2 may be included** on a single prescription form.

28 (b) **A prescription that is electronically transmitted under**  
 29 **section 17754.**



1 (3) In an emergency situation, as described in R 338.3165 of  
 2 the Michigan Administrative Code, a controlled substance included  
 3 in schedule 2 may be dispensed upon the oral prescription of a  
 4 practitioner if the prescribing practitioner promptly fills out a  
 5 prescription form and forwards the prescription form to the  
 6 dispensing pharmacy within 7 days after the oral prescription is  
 7 issued. A prescription for a controlled substance included in  
 8 schedule 2 must not be filled more than 90 days after the date on  
 9 which the prescription was issued. A pharmacist, consistent with  
 10 federal law and regulations on the partial filling of a controlled  
 11 substance included in schedule 2, may partially fill in increments  
 12 a prescription for a controlled substance included in schedule 2.

13 (4) A practitioner, in good faith, may dispense a controlled  
 14 substance included in schedule 3, 4, or 5 that is a prescription  
 15 drug as determined under section 503(b) of the federal food, drug,  
 16 and cosmetic act, 21 USC 353, or section 17708, upon receipt of a  
 17 **any of the following:**

18 (a) A prescription on a prescription form. ~~or an~~

19 (b) An oral prescription of a practitioner.

20 (c) **A prescription that is electronically transmitted under**  
 21 **section 17754.**

22 (5) A prescription for a controlled substance included in  
 23 schedule 3 or 4 must not be filled or refilled without specific  
 24 refill instructions noted by the prescriber. A prescription for a  
 25 controlled substance included in schedule 3 or 4 must not be filled  
 26 or refilled later than 6 months after the date of the prescription  
 27 or be refilled more than 5 times, unless renewed by the prescriber  
 28 in accordance with rules promulgated by the administrator.

29 (6) ~~(5)~~ A controlled substance included in schedule 5 must not



1 be distributed or dispensed other than for a medical purpose, or in  
 2 any manner except in accordance with rules promulgated by the  
 3 administrator.

4 (7) ~~(6)~~—If a prescription is required under this section, the  
 5 prescription must contain the quantity of the controlled substance  
 6 prescribed in both written and numerical terms. A prescription is  
 7 in compliance with this subsection if, in addition to containing  
 8 the quantity of the controlled substance prescribed in written  
 9 terms, it contains preprinted numbers representative of the  
 10 quantity of the controlled substance prescribed next to which is a  
 11 box or line the prescriber may check.

12 (8) ~~(7)~~—A prescribing practitioner shall not use a  
 13 prescription form for a purpose other than prescribing. A  
 14 prescribing practitioner shall not postdate a prescription form  
 15 that contains a prescription for a controlled substance. ~~A~~  
 16 ~~prescriber may transmit a prescription by facsimile of a printed~~  
 17 ~~prescription form and by electronic transmission of a printed~~  
 18 ~~prescription form, if not prohibited by federal law. If, with the~~  
 19 ~~patient's consent, a prescription is electronically transmitted, it~~  
 20 ~~must be transmitted directly to a pharmacy of the patient's choice~~  
 21 ~~by the prescriber or the prescriber's authorized agent, and the~~  
 22 ~~data must not be altered, modified, or extracted in the~~  
 23 ~~transmission process.~~

24 (9) ~~(8)~~—Notwithstanding subsections (1) to ~~(5)~~, ~~(6)~~, a class B  
 25 dealer may acquire a limited permit only for the purpose of buying,  
 26 possessing, and administering a commercially prepared, premixed  
 27 solution of sodium pentobarbital to perform euthanasia on injured,  
 28 sick, homeless, or unwanted domestic pets and other animals, if the  
 29 class B dealer does all of the following:



1 (a) Applies to the administrator for a permit in accordance  
2 with rules promulgated under this part. The application must  
3 contain the name of the individual in charge of the day-to-day  
4 operations of the class B dealer's facilities and the name of the  
5 individual responsible for designating employees who will be  
6 performing euthanasia on animals pursuant to this act.

7 (b) Complies with the rules promulgated by the administrator  
8 for the storage, handling, and use of a commercially prepared,  
9 premixed solution of sodium pentobarbital to perform euthanasia on  
10 animals. The class B dealer shall maintain a record of use and  
11 shall make the record available for inspection by the department of  
12 licensing and regulatory affairs, the department of agriculture and  
13 rural development, and the United States Department of Agriculture.

14 (c) Subject to subdivision (d), certifies that the class B  
15 dealer or an employee of the class B dealer has received, and can  
16 document completion of, a minimum of 16 hours of training,  
17 including at least 12 hours of content training and at least 4  
18 hours of practical training, in the use of a commercially prepared,  
19 premixed solution of sodium pentobarbital and an animal  
20 tranquilizer to perform euthanasia on animals from a training  
21 program approved by the state veterinarian, in consultation with  
22 the Michigan board of veterinary medicine, and given by a licensed  
23 veterinarian pursuant to rules promulgated by the administrator.  
24 The training described in this subdivision shall comply with the  
25 American Veterinary Medical Association's guidelines for the  
26 euthanasia of animals.

27 (d) Until December 31, 2021, ensures that the class B dealer  
28 or an employee of the class B dealer who received, and can document  
29 the completion of, the 8 hours of training required immediately



1 before ~~the effective date of the 2018 amendatory act that amended~~  
2 ~~this section~~ **May 22, 2018** only administers a commercially prepared,  
3 premixed solution of sodium pentobarbital to perform euthanasia on  
4 the animals described in this subsection. Beginning January 1,  
5 2022, the individuals described in this subdivision must have  
6 received, and be able to document the completion of, the training  
7 described in subdivision (c) to administer a commercially prepared,  
8 premixed solution of sodium pentobarbital or an animal tranquilizer  
9 to perform euthanasia on the animals described in this subsection.

10 (e) Certifies that only an individual described in subdivision  
11 (c) or (d) or an individual otherwise permitted to use a controlled  
12 substance pursuant to this article will administer the commercially  
13 prepared, premixed solution of sodium pentobarbital or an animal  
14 tranquilizer according to written procedures established by the  
15 class B dealer.

16 (f) Beginning January 1, 2022, certifies that the individual  
17 in charge of the day-to-day operations of the class B dealer's  
18 facilities has received, and can document the completion of, the  
19 training described in subdivision (c).

20 (g) Complies with all state and federal laws, rules, and  
21 regulations regarding the acquisition, use, and security of  
22 controlled substances.

23 **(10)** ~~(9)~~ Notwithstanding subsections (1) to ~~(5)~~, **(6)**, an  
24 animal control shelter or animal protection shelter registered with  
25 the department of agriculture and rural development pursuant to  
26 1969 PA 287, MCL 287.331 to 287.340, may acquire a limited permit  
27 only for the purpose of buying, possessing, and administering a  
28 commercially prepared, premixed solution of sodium pentobarbital,  
29 or an animal tranquilizer, to use exclusively as an adjunct in the



1 process of performing euthanasia on injured, sick, homeless, or  
2 unwanted domestic pets and other animals, if the animal control  
3 shelter or animal protection shelter does all of the following:

4 (a) Applies to the administrator for a permit in accordance  
5 with rules promulgated under this part. The application must  
6 contain the name of the individual in charge of the day-to-day  
7 operations of the animal control shelter or animal protection  
8 shelter and the name of the individual responsible for designating  
9 employees who will be performing euthanasia on animals pursuant to  
10 this act.

11 (b) Complies with the rules promulgated by the administrator  
12 for the storage, handling, and use of a commercially prepared,  
13 premixed solution of sodium pentobarbital or an animal tranquilizer  
14 to perform euthanasia on animals. The animal control shelter or  
15 animal protection shelter shall maintain a record of use and make  
16 the record available for inspection by the department of licensing  
17 and regulatory affairs and the department of agriculture and rural  
18 development.

19 (c) Subject to subdivision (d), certifies that an employee of  
20 the animal control shelter or animal protection shelter has  
21 received, and can document completion of, a minimum of 16 hours of  
22 training, including at least 12 hours of content training and at  
23 least 4 hours of practical training, in the use of a commercially  
24 prepared, premixed solution of sodium pentobarbital and an animal  
25 tranquilizer to perform euthanasia on animals from a training  
26 program approved by the state veterinarian, in consultation with  
27 the Michigan board of veterinary medicine, and given by a licensed  
28 veterinarian pursuant to rules promulgated by the administrator.  
29 The training described in this subdivision must comply with the



1 American Veterinary Medical Association's guidelines for the  
2 euthanasia of animals.

3 (d) Until December 31, 2021, ensures that an employee of the  
4 animal control shelter or animal protection shelter who received,  
5 and can document the completion of, the training required  
6 immediately before ~~the effective date of the 2018 amendatory act~~  
7 ~~that amended this section~~ **May 22, 2018** only administers a  
8 commercially prepared solution of xylazine hydrochloride or a  
9 commercially prepared, premixed solution of sodium pentobarbital to  
10 perform euthanasia on the animals described in this subsection in  
11 accordance with his or her training. Beginning January 1, 2022, the  
12 employee described in this subdivision must have received, and be  
13 able to document the completion of, the training described in  
14 subdivision (c) to administer a commercially prepared, premixed  
15 solution of sodium pentobarbital or an animal tranquilizer to  
16 perform euthanasia on the animals described in this subsection.

17 (e) Certifies that only an individual described in subdivision  
18 (c) or (d) or an individual otherwise permitted to use a controlled  
19 substance pursuant to this article will administer a commercially  
20 prepared, premixed solution of sodium pentobarbital or an animal  
21 tranquilizer according to written procedures established by the  
22 animal control shelter or animal protection shelter.

23 (f) Beginning January 1, 2022, certifies that the individual  
24 in charge of the day-to-day operations of the animal control  
25 shelter or animal protection shelter has received, and can document  
26 the completion of, the training described in subdivision (c).

27 (g) Complies with all state and federal laws and regulations  
28 regarding the acquisition, use, and security of controlled  
29 substances.





1           **(11)** ~~(10)~~—The application described in subsection ~~(8)~~ ~~or~~ ~~(9)~~  
 2 **or (10)** must include the names and addresses of all individuals  
 3 employed by the animal control shelter or animal protection shelter  
 4 or class B dealer who have been trained as described in subsection  
 5 ~~(8)(e)~~, ~~(9)(c)~~, (d), and (f) or ~~(9)(e)~~, ~~(10)(c)~~, (d), and (f) and  
 6 the name of the veterinarian who trained them. The list of names  
 7 and addresses must be updated every 6 months.

8           **(12)** ~~(11)~~—If an animal control shelter or animal protection  
 9 shelter or class B dealer issued a permit pursuant to subsection  
 10 ~~(8)~~ ~~or~~ ~~(9)~~ **or (10)** does not have in its employ an individual  
 11 trained as described in subsection ~~(8)(e)~~ ~~(9)(c)~~ or (d) and ~~(8)(f)~~,  
 12 **(9)(f)**, or ~~(9)(e)~~ ~~(10)(c)~~ or (d) and ~~(9)(f)~~, ~~(10)(f)~~, the animal  
 13 control shelter or animal protection shelter or class B dealer  
 14 shall immediately notify the administrator and shall cease to  
 15 administer a commercially prepared, premixed solution of sodium  
 16 pentobarbital or an animal tranquilizer for the purposes described  
 17 in subsection ~~(8)~~ ~~or~~ ~~(9)~~ **or (10)** until the administrator is  
 18 notified that 1 of the following has occurred:

19           (a) An individual trained as described in subsection ~~(8)(e)~~,  
 20 **(9)(c)**, (d), or (f) or ~~(9)(e)~~, ~~(10)(c)~~, (d), or (f) has been hired  
 21 by the animal control shelter or animal protection shelter or class  
 22 B dealer.

23           (b) An individual employed by the animal control shelter or  
 24 animal protection shelter or class B dealer has been trained as  
 25 described in subsection ~~(8)(e)~~ ~~(9)(c)~~ or (f) or ~~(9)(e)~~ ~~(10)(c)~~ or  
 26 (f).

27           **(13)** ~~(12)~~—A veterinarian, including a veterinarian who trains  
 28 individuals as described in subsection ~~(8)(e)~~, ~~(9)(c)~~, (d), or (f),  
 29 or ~~(9)(e)~~, ~~(10)(c)~~, (d), or (f), is not civilly or criminally



1 liable for the use of a commercially prepared, premixed solution of  
 2 sodium pentobarbital or an animal tranquilizer by an animal control  
 3 shelter or animal protection shelter or a class B dealer, unless  
 4 the veterinarian is employed by or under contract with the animal  
 5 control shelter or animal protection shelter or class B dealer and  
 6 the terms of the veterinarian's employment or the contract require  
 7 the veterinarian to be responsible for the use or administration of  
 8 the commercially prepared, premixed solution of sodium  
 9 pentobarbital or animal tranquilizer.

10       **(14)** ~~(13)~~ A person shall not knowingly use or permit the use  
 11 of a commercially prepared, premixed solution of sodium  
 12 pentobarbital or an animal tranquilizer in violation of this  
 13 section.

14       **(15)** ~~(14)~~ This section does not require that a veterinarian be  
 15 employed by or under contract with an animal control shelter or  
 16 animal protection shelter or class B dealer to obtain, possess, or  
 17 administer a commercially prepared, premixed solution of sodium  
 18 pentobarbital or an animal tranquilizer pursuant to this section.

19       **(16)** ~~(15)~~ Notwithstanding subsections (1) to ~~(5)~~, **(6)**, an  
 20 animal control shelter registered with the department of  
 21 agriculture and rural development pursuant to 1969 PA 287, MCL  
 22 287.331 to 287.340, may acquire a limited permit only for the  
 23 purpose of buying, possessing, and administering an animal  
 24 tranquilizer to sedate or immobilize an animal running at large  
 25 that is dangerous or difficult to capture, if the animal control  
 26 shelter does all of the following:

27       (a) Applies to the administrator for a permit in accordance  
 28 with the rules promulgated under this part. The application must  
 29 contain the name of the individual in charge of the day-to-day



1 operations of the animal control shelter and the name of the  
2 individual responsible for designating employees who will be  
3 administering an animal tranquilizer pursuant to this act.

4 (b) Complies with the rules promulgated by the administrator  
5 for the storage, handling, and use of an animal tranquilizer. The  
6 animal control shelter shall maintain a record of use and shall  
7 make the record available for inspection by the department of  
8 licensing and regulatory affairs and the department of agriculture  
9 and rural development.

10 (c) Subject to subdivision (d), certifies that an employee of  
11 the animal control shelter has received, and can document  
12 completion of, both of the following in the following order:

13 (i) The training described in subsection ~~(9)(e)~~ **(10)(c)**.

14 (ii) A minimum of 16 hours of training, including at least 12  
15 hours of content training and at least 4 hours of practical  
16 training, in the use of animal tranquilizers to sedate or  
17 immobilize the animals described in this subsection from a training  
18 program approved by the state veterinarian, in consultation with  
19 the Michigan board of veterinary medicine, and given by a licensed  
20 veterinarian pursuant to rules promulgated by the administrator.

21 (d) Until December 31, 2021, ensures that an employee of the  
22 animal control shelter who received, and can document the  
23 completion of, the training required immediately before ~~the~~  
24 ~~effective date of the 2018 amendatory act that amended this section~~  
25 **May 22, 2018** only administers a commercially prepared solution of  
26 xylazine hydrochloride to sedate or immobilize the animals  
27 described in this subsection. Beginning January 1, 2022, the  
28 employee described in this subdivision must have received, and be  
29 able to document the completion of, the training described in



1 subdivision (c) to administer an animal tranquilizer to perform  
2 euthanasia on the animals described in this subsection.

3 (e) Certifies that only an individual described in subdivision  
4 (c) or (d) or an individual otherwise permitted to use a controlled  
5 substance pursuant to this article will administer an animal  
6 tranquilizer according to written procedures established by the  
7 animal control shelter.

8 (f) Beginning January 1, 2022, certifies that the individual  
9 in charge of the day-to-day operations of the animal control  
10 shelter has received, and can document the completion of, the  
11 training described in subdivision (c).

12 (g) Complies with all state and federal laws, rules, and  
13 regulations regarding the acquisition, use, and security of  
14 controlled substances.

15 **(17)** ~~(16)~~—The application described in subsection ~~(15)~~—**(16)**  
16 must include the names and business addresses of all individuals  
17 employed by the animal control shelter who have been trained as  
18 described in subsection ~~(15)(e)~~, **(16)(c)**, (d), and (f) and must  
19 include documented proof of the training. The list of names and  
20 business addresses must be updated every 6 months.

21 **(18)** ~~(17)~~—If an animal control shelter issued a permit  
22 pursuant to subsection ~~(15)~~—**(16)** does not have in its employ an  
23 individual trained as described in subsection ~~(15)(e)~~, **(16)(c)** or  
24 (d) and ~~(15)(f)~~, **(16)(f)**, the animal control shelter shall  
25 immediately notify the administrator and shall cease to administer  
26 an animal tranquilizer for the purposes described in subsection  
27 ~~(15)~~—**(16)** until the administrator is notified that 1 of the  
28 following has occurred:

29 (a) An individual trained as described in subsection ~~(15)(e)~~,



1 **(16) (c)**, (d), or (f) has been hired by the animal control shelter.

2 (b) An individual employed by the animal control shelter has  
3 been trained as described in subsection ~~(15)(e)~~ **(16) (c)** or (f).

4 **(19)** ~~(18)~~—A veterinarian, including a veterinarian who trains  
5 individuals as described in subsection ~~(15)(e)~~, **(16) (c)**, (d), or  
6 (f), is not civilly or criminally liable for the use of an animal  
7 tranquilizer by an animal control shelter unless the veterinarian  
8 is employed by or under contract with the animal control shelter  
9 and the terms of the veterinarian's employment or the contract  
10 require the veterinarian to be responsible for the use or  
11 administration of an animal tranquilizer.

12 **(20)** ~~(19)~~—As used in this section:

13 (a) "Animal tranquilizer" means a commercially prepared  
14 solution of xylazine hydrochloride, a commercially prepared  
15 solution of ketamine, or a commercially prepared compound  
16 containing tiletamine and zolazepam.

17 (b) "Class B dealer" means a class B dealer licensed by the  
18 United States Department of Agriculture pursuant to the animal  
19 welfare act, 7 USC 2131 to ~~2159~~ **2160** and the department of  
20 agriculture and rural development pursuant to 1969 PA 224, MCL  
21 287.381 to 287.395.

22 Sec. 16221. Subject to section 16221b, the department shall  
23 investigate any allegation that 1 or more of the grounds for  
24 disciplinary subcommittee action under this section exist, and may  
25 investigate activities related to the practice of a health  
26 profession by a licensee, a registrant, or an applicant for  
27 licensure or registration. The department may hold hearings,  
28 administer oaths, and order the taking of relevant testimony. After  
29 its investigation, the department shall provide a copy of the



1 administrative complaint to the appropriate disciplinary  
2 subcommittee. The disciplinary subcommittee shall proceed under  
3 section 16226 if it finds that 1 or more of the following grounds  
4 exist:

5 (a) Except as otherwise specifically provided in this section,  
6 a violation of general duty, consisting of negligence or failure to  
7 exercise due care, including negligent delegation to or supervision  
8 of employees or other individuals, whether or not injury results,  
9 or any conduct, practice, or condition that impairs, or may impair,  
10 the ability to safely and skillfully engage in the practice of the  
11 health profession.

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

14 (i) Incompetence.

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

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

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

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

29 (vi) Lack of good moral character.



1 (vii) Conviction of a criminal offense under section 520e or  
 2 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and  
 3 750.520g. A certified copy of the court record is conclusive  
 4 evidence of the conviction.

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

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

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

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

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

26 (xiii) Conviction of a criminal offense under section 83, 84,  
 27 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal  
 28 code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321,  
 29 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the



1 court record is conclusive evidence of the conviction.

2 (xiv) Conviction of a violation of section 136 or 136a of the  
3 Michigan penal code, 1931 PA 328, MCL 750.136 and 750.136a. A  
4 certified copy of the court record is conclusive evidence of the  
5 conviction.

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

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

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

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

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

17 (d) Except as otherwise specifically provided in this section,  
18 unethical business practices, consisting of 1 or more of the  
19 following:

20 (i) False or misleading advertising.

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

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

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

28 (i) Misrepresentation to a consumer or patient or in obtaining





1 or attempting to obtain third party reimbursement in the course of  
2 professional practice.

3 (ii) Betrayal of a professional confidence.

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

6 (iv) Either of the following:

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

12 (B) A referral by a physician for a designated health service  
13 that violates 42 USC 1395nn or a regulation promulgated under that  
14 section. For purposes of this subdivision, 42 USC 1395nn and the  
15 regulations promulgated under that section as they exist on June 3,  
16 2002 are incorporated by reference. A disciplinary subcommittee  
17 shall apply 42 USC 1395nn and the regulations promulgated under  
18 that section regardless of the source of payment for the designated  
19 health service referred and rendered. If 42 USC 1395nn or a  
20 regulation promulgated under that section is revised after June 3,  
21 2002, the department shall officially take notice of the revision.  
22 Within 30 days after taking notice of the revision, the department  
23 shall decide whether or not the revision pertains to referral by  
24 physicians for designated health services and continues to protect  
25 the public from inappropriate referrals by physicians. If the  
26 department decides that the revision does both of those things, the  
27 department may promulgate rules to incorporate the revision by  
28 reference. If the department does promulgate rules to incorporate  
29 the revision by reference, the department shall not make any



1 changes to the revision. As used in this sub-subparagraph,  
 2 "designated health service" means that term as defined in 42 USC  
 3 1395nn and the regulations promulgated under that section and  
 4 "physician" means that term as defined in sections 17001 and 17501.

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

17 (vi) Any conduct by a health professional with a patient while  
 18 he or she is acting within the health profession for which he or  
 19 she is licensed or registered, including conduct initiated by a  
 20 patient or to which the patient consents, that is sexual or may  
 21 reasonably be interpreted as sexual, including, but not limited to,  
 22 sexual intercourse, kissing in a sexual manner, or touching of a  
 23 body part for any purpose other than appropriate examination,  
 24 treatment, or comfort.

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

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

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

29 (g) Failure to report a change of name or mailing address as



1 required in section 16192.

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

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

9 (j) Failure to pay an installment of an assessment levied  
10 under the insurance code of 1956, 1956 PA 218, MCL 500.100 to  
11 500.8302, within 60 days after notice by the appropriate board.

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

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

15 (m) A violation of section 17015, 17015a, 17017, 17515, or  
16 17517.

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

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

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

20 (q) A violation of section 16274.

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

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

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

25 (u) Failure to comply with the terms of a practice agreement  
26 described in section 17047(2)(a) or (b), 17547(2)(a) or (b), or  
27 18047(2)(a) or (b).

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

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



1 (x) A violation of section 7303b.

2 **(y) A violation of section 17754.**

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

5 Enacting section 2. This amendatory act does not take effect  
6 unless Senate Bill No. 248 of the 100th Legislature is enacted into  
7 law.

