

HOUSE BILL NO. 5543

November 10, 2021, Introduced by Reps. Anthony, Brixie, Hope, Morse, Haadsma, Steckloff, Koleszar, Cavanagh, Breen, Stone, Kuppa, Scott, Sabo, Puri, Sowerby, Hood, Rabhi, Rogers, Tate, Tyrone Carter, Ellison, Hertel, Bolden, Weiss, Sneller, Lasinski, Brabec, Pohutsky, Thanedar, Aiyash and Manoogian and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 2803, 10102, 16221, 16226, 16245, 16299,
20106, 20131, and 22224 (MCL 333.2803, 333.10102, 333.16221,
333.16226, 333.16245, 333.16299, 333.20106, 333.20131, and
333.22224), section 2803 as amended by 2020 PA 54, section 10102 as
amended by 2008 PA 39, section 16221 as amended by 2020 PA 232,
section 16226 as amended by 2020 PA 233, section 16245 as amended
by 2014 PA 413, sections 16299 and 22224 as amended by 2012 PA 499,
and section 20106 as amended by 2017 PA 167.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2803. (1) "Abortion" means ~~that term as defined in~~
2 ~~section 17015.~~the intentional use of an instrument, drug, or other
3 substance or device to terminate an individual's pregnancy for a
4 purpose other than to increase the probability of a live birth, to
5 preserve the life or health of the child after live birth, or to
6 remove a fetus that has died as a result of natural causes,
7 accidental trauma, or a criminal assault on the pregnant
8 individual. Abortion does not include the use or prescription of a
9 drug or device that prevents pregnancy, including by preventing the
10 implantation of an embryo.

11 (2) "Allowable individual" means an individual who is the
12 subject of a birth record that is only available through the office
13 of the state registrar and who meets any of the following:

14 (a) He or she was born in the jurisdiction of the office of
15 the local registrar where the certified copy of the birth record is
16 being sought.

17 (b) If the individual was adopted, his or her adoption was
18 ordered by a probate court that is located in the jurisdiction of
19 the office of the local registrar where the certified copy of the
20 birth record is being sought.

21 (3) "Dead body" means a human body or fetus, or a part of a
22 dead human body or fetus, in a condition from which it may
23 reasonably be concluded that death has occurred.

24 (4) "Fetal death" means the death of a fetus that has
25 completed at least 20 weeks of gestation or weighs at least 400
26 grams. Fetal death includes a stillbirth. The definition **of fetal**
27 **death** must conform in all other respects as closely as possible to
28 the definition recommended by the federal agency responsible for

1 vital statistics.

2 (5) "Fetal remains" means a dead fetus or part of a dead fetus
3 that has completed at least 10 weeks of gestation or has reached
4 the stage of development that, upon visual inspection of the fetus
5 or part of the fetus, the head, torso, or extremities appear to be
6 supported by skeletal or cartilaginous structures. Fetal remains do
7 not include the umbilical cord or placenta.

8 (6) "File" means to present a certificate, report, or other
9 record to the local registrar for registration by the state
10 registrar.

11 (7) "Final disposition" means the burial, cremation,
12 interment, or other legal disposition of a dead body or fetal
13 remains.

14 Sec. 10102. As used in this part:

15 (a) "Adult" means an individual who is at least 18 years of
16 age.

17 (b) "Agent" means an individual who meets 1 or more of the
18 following requirements:

19 (i) Is authorized to make health care decisions on the
20 principal's behalf by a power of attorney for health care.

21 (ii) Is expressly authorized to make an anatomical gift on the
22 principal's behalf by any other record signed by the principal.

23 (c) "Anatomical gift" means a donation of all or part of a
24 human body to take effect after the donor's death for the purpose
25 of transplantation, therapy, research, or education.

26 (d) "Body part" means an organ, eye, or tissue of a human
27 being. The term does not include the whole body.

28 (e) "Decedent" means a deceased individual whose body or body
29 part is or may be the source of an anatomical gift. The term

1 includes a stillborn infant and, subject to this subdivision and
2 restrictions imposed by law other than this part, a fetus. The term
3 does not include a blastocyst, embryo, or fetus that is the subject
4 of an abortion. As used in this subdivision, "abortion" means ~~that~~
5 ~~term as defined in section 17015.~~ **the intentional use of an**
6 **instrument, drug, or other substance or device to terminate an**
7 **individual's pregnancy for a purpose other than to increase the**
8 **probability of a live birth, to preserve the life or health of the**
9 **child after live birth, or to remove a fetus that has died as a**
10 **result of natural causes, accidental trauma, or a criminal assault**
11 **on the pregnant individual. Abortion does not include the use or**
12 **prescription of a drug or device that prevents pregnancy, including**
13 **by preventing the implantation of an embryo.**

14 (f) "Disinterested witness" means a witness who is not a
15 spouse, child, parent, sibling, grandchild, grandparent, or
16 guardian of or other adult who exhibited special care and concern
17 for the individual who makes, amends, revokes, or refuses to make
18 an anatomical gift. The term does not include a person to which an
19 anatomical gift could pass under section 10111.

20 (g) "Document of gift" means a donor card or other record used
21 to make an anatomical gift. The term includes a statement or symbol
22 on a driver license, identification card, or donor registry.

23 (h) "Donor" means an individual whose body or body part is the
24 subject of an anatomical gift.

25 (i) "Donor registry" means a database that contains records of
26 anatomical gifts and amendments to or revocations of anatomical
27 gifts as provided for in section 10120.

28 (j) "Driver license" means an operator's or chauffeur's
29 license or permit issued to an individual by the secretary of state

1 under chapter III of the Michigan vehicle code, 1949 PA 300, MCL
2 257.301 to 257.329, for that individual to operate a vehicle,
3 whether or not conditions are attached to the license or permit.

4 (k) "Eye" means a human eye or any portion of a human eye.

5 (l) "Eye bank" means a person that is licensed, accredited, or
6 regulated under federal or state law to engage in the recovery,
7 screening, testing, processing, storage, or distribution of human
8 eyes or portions of human eyes.

9 (m) "Guardian" means a person appointed by a court to make
10 decisions regarding the support, care, education, health, or
11 welfare of an individual. The term does not include a guardian ad
12 litem.

13 (n) "Hospital" means a facility licensed as a hospital under
14 the law of any state or a facility operated as a hospital by the
15 United States, a state, or a subdivision of a state.

16 (o) "Identification card" means an official state personal
17 identification card issued by the secretary of state under 1972 PA
18 222, MCL 28.291 to 28.300.

19 (p) "Know" means to have actual knowledge.

20 (q) "Minor" means an individual who is under 18 years of age.

21 (r) "Organ" means a human kidney, liver, heart, lung,
22 pancreas, or intestine or multivisceral organs when transplanted at
23 the same time as an intestine.

24 (s) "Organ procurement organization" means a person certified
25 or recertified by the ~~secretary~~**Secretary** of the United States
26 ~~department of health and human services~~**Department of Health and**
27 **Human Services** as a qualified organ procurement organization under
28 42 USC 273(b).

29 (t) "Parent" means a parent whose parental rights have not

1 been terminated.

2 (u) "Person" means an individual, corporation, business trust,
3 estate, trust, partnership, limited liability company, association,
4 joint venture, public corporation, government or governmental
5 subdivision, agency, or instrumentality or any other legal or
6 commercial entity.

7 (v) "Physician" means an individual authorized to practice
8 medicine or osteopathic medicine and surgery under the law of any
9 state.

10 (w) "Procurement organization" means an eye bank, organ
11 procurement organization, or tissue bank.

12 (x) "Prospective donor" means an individual who is dead or
13 near death and has been determined by a procurement organization to
14 have a body part that could be medically suitable for
15 transplantation, therapy, research, or education. The term does not
16 include an individual who has made a refusal.

17 (y) "Reasonably available" means able to be contacted by a
18 procurement organization without undue effort and willing and able
19 to act in a timely manner consistent with existing medical criteria
20 necessary for the making of an anatomical gift.

21 (z) "Recipient" means an individual into whose body a
22 decedent's body part has been or is intended to be transplanted.

23 (aa) "Record" means information that is inscribed on a
24 tangible medium or that is stored in an electronic or other medium
25 and is retrievable in perceivable form.

26 (bb) "Refusal" means a record created under section 10107 that
27 expressly refuses to make an anatomical gift of an individual's
28 body or body part.

29 (cc) "Sign" means that, with the present intent to

1 authenticate or adopt a record, an individual does either of the
2 following:

3 (i) Executes or adopts a tangible symbol.

4 (ii) Attaches to or logically associates with the record an
5 electronic symbol, sound, or process.

6 (dd) "State" means a state of the United States, the District
7 of Columbia, Puerto Rico, the United States Virgin Islands, or any
8 territory or insular possession subject to the jurisdiction of the
9 United States.

10 (ee) "Technician" means an individual determined to be
11 qualified to remove or process body parts by an appropriate
12 organization that is licensed, accredited, or regulated under
13 federal or state law. The term includes an enucleator.

14 (ff) "Tissue" means a portion of the human body other than an
15 organ or an eye. The term does not include blood unless the blood
16 is donated for the purpose of research or education.

17 (gg) "Tissue bank" means a person that is licensed,
18 accredited, or regulated under federal or state law to engage in
19 the recovery, screening, testing, processing, storage, or
20 distribution of tissue.

21 (hh) "Transplant hospital" means a hospital that furnishes
22 organ transplants and other medical and surgical specialty services
23 required for the care of transplant patients.

24 Sec. 16221. Subject to section 16221b, the department shall
25 investigate any allegation that 1 or more of the grounds for
26 disciplinary subcommittee action under this section exist, and may
27 investigate activities related to the practice of a health
28 profession by a licensee, a registrant, or an applicant for
29 licensure or registration. The department may hold hearings,

1 administer oaths, and order the taking of relevant testimony. After
2 its investigation, the department shall provide a copy of the
3 administrative complaint to the appropriate disciplinary
4 subcommittee. The disciplinary subcommittee shall proceed under
5 section 16226 if it finds that 1 or more of the following grounds
6 exist:

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

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

16 (i) Incompetence.

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

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

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

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

1 the court record is conclusive evidence of the conviction.

2 (vi) Lack of good moral character.

3 (vii) Conviction of a criminal offense under section 520e or
4 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and
5 750.520g. A certified copy of the court record is conclusive
6 evidence of the conviction.

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

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

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

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

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

28 (xiii) Conviction of a criminal offense under section 83, 84,
29 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal

1 code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321,
2 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the
3 court record is conclusive evidence of the conviction.

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

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

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

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

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

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

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

22 (i) False or misleading advertising.

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

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

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

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

4 (ii) Betrayal of a professional confidence.

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

7 (iv) Either of the following:

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

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

1 the revision by reference, the department shall not make any
2 changes to the revision. As used in this sub-subparagraph,
3 "designated health service" means that term as defined in 42 USC
4 1395nn and the regulations promulgated under that section and
5 "physician" means that term as defined in sections 17001 and 17501.

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

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

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

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

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

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

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

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

10 (j) Failure to pay an installment of an assessment levied
11 under the insurance code of 1956, 1956 PA 218, MCL 500.100 to
12 500.8302, within 60 days after notice by the appropriate board.

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

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

16 ~~(m) A violation of section 17015, 17015a, 17017, 17515, or~~
17 ~~17517.~~

18 ~~(n) A violation of section 17016 or 17516.~~

19 (m) ~~(e)~~ Failure to comply with section 9206(3).

20 (n) ~~(p)~~ A violation of section 5654 or 5655.

21 (o) ~~(q)~~ A violation of section 16274.

22 (p) ~~(r)~~ A violation of section 17020 or 17520.

23 (q) ~~(s)~~ A violation of the medical records access act, 2004 PA
24 47, MCL 333.26261 to 333.26271.

25 (r) ~~(t)~~ A violation of section 17764(2).

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

29 (t) ~~(v)~~ A violation of section 7303a(2).

1 (u) ~~(w)~~—A violation of section 7303a(4) or (5).

2 (v) ~~(x)~~—A violation of section 7303b.

3 (w) ~~(y)~~—A violation of section 17754a.

4 (x) ~~(z)~~—Beginning January 1, 2021, a violation of section
5 24507 or 24509.

6 Sec. 16226. (1) After finding the existence of 1 or more of
7 the grounds for disciplinary subcommittee action listed in section
8 16221, a disciplinary subcommittee shall impose 1 or more of the
9 following sanctions for each violation:

	<u>Violations of Section 16221</u>	<u>Sanctions</u>
11 12 13 14 15	Subdivision (a), (b) (i), (b) (ii), (b) (iii), (b) (iv), (b) (v), (b) (vi), (b) (vii), (b) (ix), (b) (x), (b) (xi), or (b) (xii)	Probation, limitation, denial, suspension, revocation, permanent revocation, restitution, or fine.
17 18	Subdivision (b) (viii)	Revocation, permanent revocation, or denial.
20 21 22 23 24 25	Subdivision (b) (xiii)	Permanent revocation for a violation described in subsection (5); otherwise, probation, limitation, denial, suspension, revocation, restitution, or fine.
27 28	Subdivision (b) (xiv)	Permanent revocation.

1	Subdivision (c) (i)	Denial, revocation, suspension,
2		probation, limitation, or fine.
3		
4	Subdivision (c) (ii)	Denial, suspension, revocation,
5		restitution, or fine.
6		
7	Subdivision (c) (iii)	Probation, denial, suspension,
8		revocation, restitution, or fine.
9		
10	Subdivision (c) (iv)	Fine, probation, denial,
11	or (d) (iii)	suspension, revocation, permanent
12		revocation, or restitution.
13		
14	Subdivision (d) (i)	Reprimand, fine, probation,
15	or (d) (ii)	denial, or restitution.
16		
17	Subdivision (e) (i),	Reprimand, fine, probation,
18	(e) (iii), (e) (iv), (e) (v),	limitation, suspension,
19	(h), or (s) (q)	revocation, permanent revocation,
20		denial, or restitution.
21		
22	Subdivision (e) (ii)	Reprimand, probation, suspension,
23	or (i)	revocation, permanent
24		revocation, restitution,
25		denial, or fine.
26		
27	Subdivision (e) (vi),	Probation, suspension, revocation,
28	(e) (vii), or (e) (viii)	limitation, denial,

1		restitution, or fine.
2		
3	Subdivision (f)	Reprimand, denial, limitation,
4		probation, or fine.
5		
6	Subdivision (g)	Reprimand or fine.
7		
8	Subdivision (j)	Suspension or fine.
9		
10	Subdivision (k), (p) , (n) ,	Reprimand, probation, suspension,
11	or (r) (p)	revocation, permanent revocation,
12		or fine.
13		
14	Subdivision (l)	Reprimand, denial, or
15		limitation.
16		
17	Subdivision (m) or (o)	Denial, revocation, restitution,
18		probation, suspension,
19		limitation, reprimand, or fine.
20		
21	Subdivision (n)	Revocation or denial.
22		
23	Subdivision (q) (o)	Revocation.
24		
25	Subdivision (t) (r)	Revocation, permanent revocation,
26		fine, or restitution.
27		
28	Subdivision (u) (s)	Denial, revocation, probation,
29		suspension, limitation, reprimand,

1 or fine.

2
3 Subdivision **(t) or** (v) ~~or~~ Probation, limitation, denial,

4 ~~(x)~~
5 fine, suspension, revocation, or
6 permanent revocation.

7
8 Subdivision ~~(w)~~ **(u)** Denial, fine, reprimand,
9 probation, limitation,
10 suspension, revocation, or
11 permanent revocation.

12 Subdivision ~~(y)~~ **(w)** Subject to subsection (7),
13 fine.

14
15 Subdivision ~~(z)~~ **(x)** Fine.

16 (2) Determination of sanctions for violations under this
17 section shall be made by a disciplinary subcommittee. If, during
18 judicial review, the court of appeals determines that a final
19 decision or order of a disciplinary subcommittee prejudices
20 substantial rights of the petitioner for 1 or more of the grounds
21 listed in section 106 of the administrative procedures act of 1969,
22 MCL 24.306, and holds that the final decision or order is unlawful
23 and is to be set aside, the court shall state on the record the
24 reasons for the holding and may remand the case to the disciplinary
25 subcommittee for further consideration.

26 (3) A disciplinary subcommittee may impose a fine in an amount
27 that does not exceed \$250,000.00 for a violation of section
28 16221(a) or (b). A disciplinary subcommittee shall impose a fine of
29 at least \$25,000.00 if the violation of section 16221(a) or (b)

1 results in the death of 1 or more patients.

2 (4) A disciplinary subcommittee may require a licensee or
3 registrant or an applicant for licensure or registration who has
4 violated this article, article 7, or article 8 or a rule
5 promulgated under this article, article 7, or article 8 to
6 satisfactorily complete an educational program, a training program,
7 or a treatment program, a mental, physical, or professional
8 competence examination, or a combination of those programs and
9 examinations.

10 (5) A disciplinary subcommittee shall impose the sanction of
11 permanent revocation for a violation of section 16221(b) (*xiii*) if the
12 violation occurred while the licensee or registrant was acting
13 within the health profession for which he or she was licensed or
14 registered.

15 (6) Except as otherwise provided in subsection (5) and this
16 subsection, a disciplinary subcommittee shall not impose the
17 sanction of permanent revocation under this section without a
18 finding that the licensee or registrant engaged in a pattern of
19 intentional acts of fraud or deceit resulting in personal financial
20 gain to the licensee or registrant and harm to the health of
21 patients under the licensee's or registrant's care. This subsection
22 does not apply if a disciplinary subcommittee finds that a licensee
23 or registrant has violated section 16221(b) (*xiv*).

24 (7) A disciplinary subcommittee shall impose a fine of not
25 more than \$250.00 for each violation of section ~~16221(y)~~**16221(w)**.

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

1 or reclassification of a limited license pursuant to section 16247
2 or 16249.

3 (2) Except as otherwise provided in this section or section
4 16245a, an individual whose registration is suspended or revoked
5 under this part may apply to his or her board for a reinstatement
6 of a suspended or revoked registration pursuant to section 16248.

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

10 (4) Except as otherwise provided in this section or section
11 16245a, in case of a revoked license or registration, an applicant
12 shall not apply for reinstatement before the expiration of 3 years
13 after the effective date of the revocation. Except as otherwise
14 provided in this section or section 16245a, in the case of a
15 license or registration that was revoked for a violation of section
16 16221(b) (vii) or (xiii), a violation of section 16221(c) (iv) consisting
17 of a felony conviction, any other felony conviction involving a
18 controlled substance, or a violation of section ~~16221(q)~~, **16221(o)**,
19 an applicant shall not apply for reinstatement before the
20 expiration of 5 years after the effective date of the revocation.
21 The department shall return an application for reinstatement
22 received before the expiration of the applicable time period under
23 this subsection.

24 (5) The department shall provide an opportunity for a hearing
25 before final rejection of an application for reinstatement unless
26 the application is returned because the applicant is ineligible for
27 reinstatement under subsection (4) or (9).

28 (6) Based ~~upon~~**on** the recommendation of the disciplinary
29 subcommittee for each health profession, the department shall adopt

1 guidelines to establish specific criteria to be met by an applicant
 2 for reinstatement under this article, article 7, or article 8. The
 3 criteria may include corrective measures or remedial education as a
 4 condition of reinstatement. If a board or task force, in
 5 reinstating a license or registration, deviates from the guidelines
 6 adopted under this subsection, the board or task force shall state
 7 the reason for the deviation on the record.

8 (7) An individual who seeks reinstatement or reclassification
 9 of a license or registration under this section shall pay the
 10 application processing fee as a reinstatement or reclassification
 11 fee. If approved for reinstatement or reclassification, the
 12 individual shall pay the per year license or registration fee for
 13 the applicable license or registration period.

14 (8) An individual who seeks reinstatement of a revoked or
 15 suspended license or reclassification of a limited license under
 16 this section shall have a criminal history check conducted in
 17 accordance with section 16174 and submit a copy of the results of
 18 the criminal history check to the board with his or her application
 19 for reinstatement or reclassification.

20 (9) An individual whose license is permanently revoked under
 21 section 16221 is ineligible for reinstatement. The department shall
 22 return an application for reinstatement received if the applicant
 23 is ineligible for reinstatement under this subsection.

24 Sec. 16299. (1) Except as otherwise provided in subsection
 25 (2), a person who violates or aids or abets another in a violation
 26 of this article, other than those matters described in sections
 27 16294 and 16296, is guilty of a misdemeanor punishable as follows:

28 (a) For the first offense, by imprisonment for not more than
 29 90 days ~~or~~ a fine of not more than \$100.00, or both.

1 (b) For the second or subsequent offense, by imprisonment for
 2 not less than 90 days nor more than 6 months ~~, or a fine of not~~
 3 less than \$200.00 nor more than \$500.00, or both.

4 (2) Subsection (1) does not apply to a violation of ~~section~~
 5 ~~17015, 17015a, 17017, 17515, or 17517.~~ **this article for which**
 6 **another criminal penalty is specifically prescribed.**

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

9 (a) An ambulance operation, aircraft transport operation,
 10 nontransport prehospital life support operation, or medical first
 11 response service.

12 (b) A county medical care facility.

13 (c) A freestanding surgical outpatient facility.

14 (d) A health maintenance organization.

15 (e) A home for the aged.

16 (f) A hospital.

17 (g) A nursing home.

18 (h) A hospice.

19 (i) A hospice residence.

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

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

25 (3) "Home for the aged" means a supervised personal care
 26 facility at a single address, other than a hotel, adult foster care
 27 facility, hospital, nursing home, or county medical care facility
 28 that provides room, board, and supervised personal care to 21 or
 29 more unrelated, nontransient, individuals 55 years of age or older.

1 Home for the aged includes a supervised personal care facility for
2 20 or fewer individuals 55 years of age or older if the facility is
3 operated in conjunction with and as a distinct part of a licensed
4 nursing home. Home for the aged does not include an area excluded
5 from this definition by section 17(3) of the continuing care
6 community disclosure act, 2014 PA 448, MCL 554.917.

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

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

19 (6) "Hospital long-term care unit" means a nursing care
20 facility, owned and operated by and as part of a hospital,
21 providing organized nursing care and medical treatment to 7 or more
22 unrelated individuals suffering or recovering from illness, injury,
23 or infirmity.

24 Sec. 20131. (1) The department shall establish a comprehensive
25 system of licensure and certification for health facilities or
26 agencies in accordance with this article to **do all of the**
27 **following:**

28 (a) Protect the health, safety, and welfare of individuals
29 receiving care and services in or from a health facility or agency.

1 (b) ~~Assure~~**Ensure** the medical accountability for reimbursed
 2 care provided by a certified health facility or agency
 3 participating in a federal or state health program.

4 (2) The department may certify a health facility or agency, or
 5 ~~a part thereof, defined in section 20106 or under section 20115~~**of**
 6 **a health facility or agency**, when certification is required by
 7 state or federal law, rule, or regulation.

8 (3) The department shall coordinate all functions in state
 9 government affecting health facilities and agencies licensed under
 10 this article and cooperate with other state agencies which
 11 establish standards or requirements for health facilities and
 12 agencies to ~~assure~~**ensure** necessary, equitable, and consistent
 13 state supervision of licensees without unnecessary duplication of
 14 survey, evaluation, and consultation services or complaint
 15 investigations. The department may enter into agreements with other
 16 state agencies necessary to accomplish this purpose.

17 (4) The department shall utilize public disclosure to improve
 18 the effectiveness of licensure.

19 Sec. 22224. ~~(1) A health facility required to be licensed as a~~
 20 ~~freestanding surgical outpatient facility by rules promulgated~~
 21 ~~under section 20115(2) due to the performance of abortions at that~~
 22 ~~facility is not required to obtain a certificate of need in order~~
 23 ~~to be granted a license as a freestanding surgical outpatient~~
 24 ~~facility. However, a health facility described in this subsection~~
 25 ~~is subject to this part for the services performed at that facility~~
 26 ~~other than abortions.~~

27 **(1)** ~~(2)~~ If a freestanding surgical outpatient facility is
 28 applying for a certificate of need to initiate, replace, or expand
 29 a covered clinical service consisting of surgical services, the

1 department shall not count abortion procedures in determining if
2 the freestanding surgical outpatient facility meets the annual
3 minimum number of surgical procedures required in the certificate
4 of need standards governing surgical services.

5 (2) ~~(3)~~ As used in this section, "abortion" means ~~that term as~~
6 ~~defined in section 17015.~~ **the intentional use of an instrument,**
7 **drug, or other substance or device to terminate an individual's**
8 **pregnancy for a purpose other than to increase the probability of a**
9 **live birth, to preserve the life or health of the child after live**
10 **birth, or to remove a fetus that has died as a result of natural**
11 **causes, accidental trauma, or a criminal assault on the pregnant**
12 **individual. Abortion does not include the use or prescription of a**
13 **drug or device that prevents pregnancy, including by preventing the**
14 **implantation of an embryo.**

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

17 Enacting section 2. This amendatory act does not take effect
18 unless Senate Bill No. ____ or House Bill No. 5542 (request no.
19 00704'21) of the 101st Legislature is enacted into law.