

HOUSE BILL NO. 5180

October 31, 2019, Introduced by Reps. Anthony, Pagan, Hood, Ellison, Brenda Carter, Stone, Sowerby, Sneller, Tyrone Carter, Manoogian, Brixie, Cynthia Johnson, Lasinski, Warren, Kennedy, Hoadley, Cherry, Pohutsky, Hope, Kuppa, Rabhi, Garza, Bolden, Gay-Dagnogo, Wittenberg, Sabo, Shannon and Greig and referred to the Committee on Government Operations.

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), sections 2803, 16299, and 22224 as amended by 2012 PA
499, section 10102 as amended by 2008 PA 39, sections 16221 and
16226 as amended by 2018 PA 463, section 16245 as amended by 2014
PA 413, and section 20106 as amended by 2017 PA 167.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:



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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) "Dead body" means a human body or fetus, or a part of a
12 dead human body or fetus, in a condition from which it may
13 reasonably be concluded that death has occurred.

14 (3) "Fetal death" means the death of a fetus that has
15 completed at least 20 weeks of gestation or weighs at least 400
16 grams. Fetal death includes a stillbirth. The definition ~~shall of~~
17 **fetal death must** conform in all other respects as closely as
18 possible to the definition recommended by the federal agency
19 responsible for vital statistics.

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

26 (5) "File" means to present a certificate, report, or other
27 record to the local registrar for registration by the state
28 registrar.

29 (6) "Final disposition" means the burial, cremation,



1 interment, or other legal disposition of a dead body or fetal
2 remains.

3 Sec. 10102. As used in this part:

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

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

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

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

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

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

17 (e) "Decedent" means a deceased individual whose body or body
18 part is or may be the source of an anatomical gift. The term
19 includes a stillborn infant and, subject to this subdivision and
20 restrictions imposed by law other than this part, a fetus. The term
21 does not include a blastocyst, embryo, or fetus that is the subject
22 of an abortion. As used in this subdivision, "abortion" means ~~that~~
23 ~~term as defined in section 17015.~~ **the intentional use of an**

24 **instrument, drug, or other substance or device to terminate an**
25 **individual's pregnancy for a purpose other than to increase the**
26 **probability of a live birth, to preserve the life or health of the**
27 **child after live birth, or to remove a fetus that has died as a**
28 **result of natural causes, accidental trauma, or a criminal assault**
29 **on the pregnant individual. Abortion does not include the use or**



1 **prescription of a drug or device that prevents pregnancy, including**
2 **by preventing the implantation of an embryo.**

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

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

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

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

17 (j) "Driver license" means an operator's or chauffeur's
18 license or permit issued to an individual by the secretary of state
19 under chapter III of the Michigan vehicle code, 1949 PA 300, MCL
20 257.301 to 257.329, for that individual to operate a vehicle,
21 whether or not conditions are attached to the license or permit.

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

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

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



1 litem.

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

5 (o) "Identification card" means an official state personal
6 identification card issued by the secretary of state under 1972 PA
7 222, MCL 28.291 to 28.300.

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

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

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

13 (s) "Organ procurement organization" means a person certified
14 or recertified by the ~~secretary~~ **Secretary** of the United States
15 ~~department of health and human services~~ **Department of Health and**
16 **Human Services** as a qualified organ procurement organization under
17 42 USC 273(b).

18 (t) "Parent" means a parent whose parental rights have not
19 been terminated.

20 (u) "Person" means an individual, corporation, business trust,
21 estate, trust, partnership, limited liability company, association,
22 joint venture, public corporation, government or governmental
23 subdivision, agency, or instrumentality or any other legal or
24 commercial entity.

25 (v) "Physician" means an individual authorized to practice
26 medicine or osteopathic medicine and surgery under the law of any
27 state.

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



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

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

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

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

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

18 (cc) "Sign" means that, with the present intent to
19 authenticate or adopt a record, an individual does either of the
20 following:

21 (i) Executes or adopts a tangible symbol.

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

24 (dd) "State" means a state of the United States, the District
25 of Columbia, Puerto Rico, the United States Virgin Islands, or any
26 territory or insular possession subject to the jurisdiction of the
27 United States.

28 (ee) "Technician" means an individual determined to be
29 qualified to remove or process body parts by an appropriate



1 organization that is licensed, accredited, or regulated under
2 federal or state law. The term includes an enucleator.

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

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

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

13 Sec. 16221. Subject to section 16221b, the department shall
14 investigate any allegation that 1 or more of the grounds for
15 disciplinary subcommittee action under this section exist, and may
16 investigate activities related to the practice of a health
17 profession by a licensee, a registrant, or an applicant for
18 licensure or registration. The department may hold hearings,
19 administer oaths, and order the taking of relevant testimony. After
20 its investigation, the department shall provide a copy of the
21 administrative complaint to the appropriate disciplinary
22 subcommittee. The disciplinary subcommittee shall proceed under
23 section 16226 if it finds that 1 or more of the following grounds
24 exist:

25 (a) Except as otherwise specifically provided in this section,
26 a violation of general duty, consisting of negligence or failure to
27 exercise due care, including negligent delegation to or supervision
28 of employees or other individuals, whether or not injury results,
29 or any conduct, practice, or condition that impairs, or may impair,



1 the ability to safely and skillfully engage in the practice of the
2 health profession.

3 (b) Personal disqualifications, consisting of 1 or more of the
4 following:

5 (i) Incompetence.

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

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

12 (iv) Declaration of mental incompetence by a court of competent
13 jurisdiction.

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

20 (vi) Lack of good moral character.

21 (vii) Conviction of a criminal offense under section 520e or
22 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and
23 750.520g. A certified copy of the court record is conclusive
24 evidence of the conviction.

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

28 (ix) Conviction of a misdemeanor or felony involving fraud in



1 obtaining or attempting to obtain fees related to the practice of a
2 health profession. A certified copy of the court record is
3 conclusive evidence of the conviction.

4 (x) Final adverse administrative action by a licensure,
5 registration, disciplinary, or certification board involving the
6 holder of, or an applicant for, a license or registration regulated
7 by another state or a territory of the United States, by the United
8 States military, by the federal government, or by another country.
9 A certified copy of the record of the board is conclusive evidence
10 of the final action.

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

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

18 (xiii) Conviction of a criminal offense under section 83, 84,
19 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal
20 code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321,
21 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the
22 court record is conclusive evidence of the conviction.

23 (xiv) Conviction of a violation of section 136 or 136a of the
24 Michigan penal code, 1931 PA 328, MCL 750.136 and 750.136a. A
25 certified copy of the court record is conclusive evidence of the
26 conviction.

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

28 (i) Fraud or deceit in obtaining or renewing a license or
29 registration.



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

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

4 (iv) Obtaining, possessing, or attempting to obtain or possess
5 a controlled substance ~~as defined in section 7104~~ or a drug as
6 defined in section 7105 without lawful authority; or selling,
7 prescribing, giving away, or administering drugs for other than
8 lawful diagnostic or therapeutic purposes.

9 (d) Except as otherwise specifically provided in this section,
10 unethical business practices, consisting of 1 or more of the
11 following:

12 (i) False or misleading advertising.

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

16 (iii) Fraud or deceit in obtaining or attempting to obtain third
17 party reimbursement.

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

20 (i) Misrepresentation to a consumer or patient or in obtaining
21 or attempting to obtain third party reimbursement in the course of
22 professional practice.

23 (ii) Betrayal of a professional confidence.

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

26 (iv) Either of the following:

27 (A) A requirement by a licensee other than a physician or a
28 registrant that an individual purchase or secure a drug, device,



1 treatment, procedure, or service from another person, place,
2 facility, or business in which the licensee or registrant has a
3 financial interest.

4 (B) A referral by a physician for a designated health service
5 that violates 42 USC 1395nn or a regulation promulgated under that
6 section. For purposes of this subdivision, 42 USC 1395nn and the
7 regulations promulgated under that section as they exist on June 3,
8 2002 are incorporated by reference. A disciplinary subcommittee
9 shall apply 42 USC 1395nn and the regulations promulgated under
10 that section regardless of the source of payment for the designated
11 health service referred and rendered. If 42 USC 1395nn or a
12 regulation promulgated under that section is revised after June 3,
13 2002, the department shall officially take notice of the revision.
14 Within 30 days after taking notice of the revision, the department
15 shall decide whether or not the revision pertains to referral by
16 physicians for designated health services and continues to protect
17 the public from inappropriate referrals by physicians. If the
18 department decides that the revision does both of those things, the
19 department may promulgate rules to incorporate the revision by
20 reference. If the department does promulgate rules to incorporate
21 the revision by reference, the department shall not make any
22 changes to the revision. As used in this sub-subparagraph,
23 "designated health service" means that term as defined in 42 USC
24 1395nn and the regulations promulgated under that section and
25 "physician" means that term as defined in sections 17001 and 17501.

26 (v) For a physician who makes referrals under 42 USC 1395nn or
27 a regulation promulgated under that section, refusing to accept a
28 reasonable proportion of patients eligible for Medicaid and
29 refusing to accept payment from Medicaid or Medicare as payment in



1 full for a treatment, procedure, or service for which the physician
2 refers the individual and in which the physician has a financial
3 interest. A physician who owns all or part of a facility in which
4 he or she provides surgical services is not subject to this
5 subparagraph if a referred surgical procedure he or she performs in
6 the facility is not reimbursed at a minimum of the appropriate
7 Medicaid or Medicare outpatient fee schedule, including the
8 combined technical and professional components.

9 (vi) Any conduct by a health professional with a patient while
10 he or she is acting within the health profession for which he or
11 she is licensed or registered, including conduct initiated by a
12 patient or to which the patient consents, that is sexual or may
13 reasonably be interpreted as sexual, including, but not limited to,
14 sexual intercourse, kissing in a sexual manner, or touching of a
15 body part for any purpose other than appropriate examination,
16 treatment, or comfort.

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

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

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

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

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

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



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

(k) A violation of section 17013 or 17513.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Violations of Section 16221

Sanctions

Subdivision (a), (b) (i),	Probation, limitation, denial,
(b) (ii), (b) (iii), (b) (iv),	suspension, revocation,



1	(b) (v) , (b) (vi) , (b) (vii) ,	permanent revocation,
2	(b) (ix) , (b) (x) , (b) (xi) ,	restitution, or fine.
3	or (b) (xii)	
4		
5	Subdivision (b) (viii)	Revocation, permanent revocation,
6		or denial.
7		
8	Subdivision (b) (xiii)	Permanent revocation
9		for a violation described in
10		subsection (5); otherwise,
11		probation, limitation, denial,
12		suspension, revocation,
13		restitution, or fine.
14		
15	Subdivision (b) (xiv)	Permanent revocation.
16		
17	Subdivision (c) (i)	Denial, revocation, suspension,
18		probation, limitation, or fine.
19		
20	Subdivision (c) (ii)	Denial, suspension, revocation,
21		restitution, or fine.
22		
23	Subdivision (c) (iii)	Probation, denial, suspension,
24		revocation, restitution, or fine.
25		
26	Subdivision (c) (iv)	Fine, probation, denial,
27	or (d) (iii)	suspension, revocation, permanent
28		revocation, or restitution.

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

1
2 Subdivision (l) Reprimand, denial, or
3 limitation.
4
5 Subdivision (m) ~~or (o)~~ Denial, revocation, restitution,
6 probation, suspension,
7 limitation, reprimand, or fine.
8
9 ~~Subdivision (n) Revocation or denial.~~
10
11 Subdivision ~~(q)~~ (o) Revocation.
12
13 Subdivision ~~(t)~~ (r) Revocation, permanent revocation,
14 fine, or restitution.
15
16 Subdivision ~~(u)~~ (s) Denial, revocation, probation,
17 suspension, limitation,
18 reprimand,
19 or fine.
20
21 Subdivision (t) or (v) ~~or~~ Probation, limitation, denial,
22 ~~(x)~~ fine, suspension, revocation, or
23 permanent revocation.
24
25 Subdivision ~~(w)~~ (u) Denial, fine, reprimand,
26 probation, limitation,
27 suspension, revocation, or
28 permanent revocation.
29 (2) Determination of sanctions for violations under this



1 section shall be made by a disciplinary subcommittee. If, during
2 judicial review, the court of appeals determines that a final
3 decision or order of a disciplinary subcommittee prejudices
4 substantial rights of the petitioner for 1 or more of the grounds
5 listed in section 106 of the administrative procedures act of 1969,
6 ~~1969 PA 306, MCL 24.306~~, and holds that the final decision or order
7 is unlawful and is to be set aside, the court shall state on the
8 record the reasons for the holding and may remand the case to the
9 disciplinary subcommittee for further consideration.

10 (3) A disciplinary subcommittee may impose a fine in an amount
11 that does not exceed \$250,000.00 for a violation of section
12 16221(a) or (b). A disciplinary subcommittee shall impose a fine of
13 at least \$25,000.00 if the violation of section 16221(a) or (b)
14 results in the death of 1 or more patients.

15 (4) A disciplinary subcommittee may require a licensee or
16 registrant or an applicant for licensure or registration who has
17 violated this article, article 7, or article 8 or a rule
18 promulgated under this article, article 7, or article 8 to
19 satisfactorily complete an educational program, a training program,
20 or a treatment program, a mental, physical, or professional
21 competence examination, or a combination of those programs and
22 examinations.

23 (5) A disciplinary subcommittee shall impose the sanction of
24 permanent revocation for a violation of section 16221(b) (*xiii*) if the
25 violation occurred while the licensee or registrant was acting
26 within the health profession for which he or she was licensed or
27 registered.

28 (6) Except as otherwise provided in subsection (5) and this
29 subsection, a disciplinary subcommittee shall not impose the



1 sanction of permanent revocation under this section without a
 2 finding that the licensee or registrant engaged in a pattern of
 3 intentional acts of fraud or deceit resulting in personal financial
 4 gain to the licensee or registrant and harm to the health of
 5 patients under the licensee's or registrant's care. This subsection
 6 does not apply if a disciplinary subcommittee finds that a licensee
 7 or registrant has violated section 16221(b) (xiv) .

8 Sec. 16245. (1) Except as otherwise provided in this section
 9 or section 16245a, an individual whose license is limited,
 10 suspended, or revoked under this part may apply to his or her board
 11 or task force for a reinstatement of a revoked or suspended license
 12 or reclassification of a limited license pursuant to section 16247
 13 or 16249.

14 (2) Except as otherwise provided in this section or section
 15 16245a, an individual whose registration is suspended or revoked
 16 under this part may apply to his or her board for a reinstatement
 17 of a suspended or revoked registration pursuant to section 16248.

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

21 (4) Except as otherwise provided in this section or section
 22 16245a, in case of a revoked license or registration, an applicant
 23 shall not apply for reinstatement before the expiration of 3 years
 24 after the effective date of the revocation. Except as otherwise
 25 provided in this section or section 16245a, in the case of a
 26 license or registration that was revoked for a violation of section
 27 16221(b) (vii) or (xiii) , a violation of section 16221(c) (iv) consisting
 28 of a felony conviction, any other felony conviction involving a
 29 controlled substance, or a violation of section ~~16221(q)~~ , **16221(o)** ,



1 an applicant shall not apply for reinstatement before the
2 expiration of 5 years after the effective date of the revocation.
3 The department shall return an application for reinstatement
4 received before the expiration of the applicable time period under
5 this subsection.

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

10 (6) Based ~~upon~~^{on} the recommendation of the disciplinary
11 subcommittee for each health profession, the department shall adopt
12 guidelines to establish specific criteria to be met by an applicant
13 for reinstatement under this article, article 7, or article 8. The
14 criteria may include corrective measures or remedial education as a
15 condition of reinstatement. If a board or task force, in
16 reinstating a license or registration, deviates from the guidelines
17 adopted under this subsection, the board or task force shall state
18 the reason for the deviation on the record.

19 (7) An individual who seeks reinstatement or reclassification
20 of a license or registration under this section shall pay the
21 application processing fee as a reinstatement or reclassification
22 fee. If approved for reinstatement or reclassification, the
23 individual shall pay the per year license or registration fee for
24 the applicable license or registration period.

25 (8) An individual who seeks reinstatement of a revoked or
26 suspended license or reclassification of a limited license under
27 this section shall have a criminal history check conducted in
28 accordance with section 16174 and submit a copy of the results of
29 the criminal history check to the board with his or her application



1 for reinstatement or reclassification.

2 (9) An individual whose license is permanently revoked under
3 section 16221 is ineligible for reinstatement. The department shall
4 return an application for reinstatement received if the applicant
5 is ineligible for reinstatement under this subsection.

6 Sec. 16299. (1) Except as otherwise provided in subsection
7 (2), a person who violates or aids or abets another in a violation
8 of this article, other than those matters described in sections
9 16294 and 16296, is guilty of a misdemeanor punishable as follows:

10 (a) For the first offense, by imprisonment for not more than
11 90 days ~~or~~ a fine of not more than \$100.00, or both.

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

15 (2) Subsection (1) does not apply to a violation of ~~section~~
16 ~~17015, 17015a, 17017, 17515, or 17517.~~ **this article for which**
17 **another criminal penalty is specifically prescribed.**

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

20 (a) An ambulance operation, aircraft transport operation,
21 nontransport prehospital life support operation, or medical first
22 response service.

23 (b) A county medical care facility.

24 (c) A freestanding surgical outpatient facility.

25 (d) A health maintenance organization.

26 (e) A home for the aged.

27 (f) A hospital.

28 (g) A nursing home.

29 (h) A hospice.



1 (i) A hospice residence.

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

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

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

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

22 (5) "Hospital" means a facility offering inpatient, overnight
23 care, and services for observation, diagnosis, and active treatment
24 of an individual with a medical, surgical, obstetric, chronic, or
25 rehabilitative condition requiring the daily direction or
26 supervision of a physician. Hospital does not include a mental
27 health hospital licensed or operated by the department of health
28 and human services or a hospital operated by the department of
29 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. 20131. (1) The department shall establish a comprehensive
 7 system of licensure and certification for health facilities or
 8 agencies in accordance with this article to **do all of the**
 9 **following:**

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

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

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

19 (3) The department shall coordinate all functions in state
 20 government affecting health facilities and agencies licensed under
 21 this article and cooperate with other state agencies which
 22 establish standards or requirements for health facilities and
 23 agencies to ~~assure~~**ensure** necessary, equitable, and consistent
 24 state supervision of licensees without unnecessary duplication of
 25 survey, evaluation, and consultation services or complaint
 26 investigations. The department may enter into agreements with other
 27 state agencies necessary to accomplish this purpose.

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



1 Sec. 22224. ~~(1) A health facility required to be licensed as a~~
 2 ~~freestanding surgical outpatient facility by rules promulgated~~
 3 ~~under section 20115(2) due to the performance of abortions at that~~
 4 ~~facility is not required to obtain a certificate of need in order~~
 5 ~~to be granted a license as a freestanding surgical outpatient~~
 6 ~~facility. However, a health facility described in this subsection~~
 7 ~~is subject to this part for the services performed at that facility~~
 8 ~~other than abortions.~~

9 (1) ~~(2)~~ If a freestanding surgical outpatient facility is
 10 applying for a certificate of need to initiate, replace, or expand
 11 a covered clinical service consisting of surgical services, the
 12 department shall not count abortion procedures in determining if
 13 the freestanding surgical outpatient facility meets the annual
 14 minimum number of surgical procedures required in the certificate
 15 of need standards governing surgical services.

16 (2) ~~(3)~~ As used in this section, "abortion" means ~~that term as~~
 17 ~~defined in section 17015.~~ **the intentional use of an instrument,**
 18 **drug, or other substance or device to terminate an individual's**
 19 **pregnancy for a purpose other than to increase the probability of a**
 20 **live birth, to preserve the life or health of the child after live**
 21 **birth, or to remove a fetus that has died as a result of natural**
 22 **causes, accidental trauma, or a criminal assault on the pregnant**
 23 **individual. Abortion does not include the use or prescription of a**
 24 **drug or device that prevents pregnancy, including by preventing the**
 25 **implantation of an embryo.**

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

28 Enacting section 2. This amendatory act does not take effect
 29 unless Senate Bill No. ____ or House Bill No. 5179 (request no.



1 03569'19) of the 100th Legislature is enacted into law.

