



EMSCC LEGISLATIVE SUBCOMMITTEE

AGENDA

May 8, 2023

10 a.m. – 12 p.m.

VIRTUAL ONLY

Microsoft Teams

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248-509-0316 Access Code: 564 056 523#

Committee Members: Bruce Trevithick – chair, Dr. Brent, Lance Corey, Ken Cummings, Greg Flynn, Paul Hood, Lauren LaPine, Angela Madden, Bob Miljan, Monty Nye, Dr. Rockoff, Alyson Sundberg, Jeff White.

1. **Call to Order**
2. **Approval of Agenda and Minutes from September 12, 2022** Tab 1
3. **Current Legislative Review**
 - a. SB 28 – Restraints Tab 2
 - b. SB 249 – State Paramedic Exam Tab 3
 - c. HB 4358 – Disclosure of a Weapon by Patient to EMS Tab 4
 - d. SB 69 & 71 – No Vaginal or Anal Penetration Tab 5a-b
4. **Other Business**
5. **Adjourn**
6. **Next Meeting: June 5, 2023**

SENATE BILL NO. 28

January 18, 2023, Introduced by Senators ANTHONY, WOJNO, GEISS, CAVANAGH, SINGH and CHANG and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled "Mental health code," by amending sections 700 and 740 (MCL 330.1700 and 330.1740), as amended by 1995 PA 290; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 700. As used in this chapter, unless the context requires
2 otherwise:

3 (a) "Authorized licensed practitioner" means a physician
4 assistant or nurse practitioner.

5 (b) "Chemical restraint" means a drug that is used for

1 discipline or convenience and is not required to treat a diagnosed
 2 medical symptom. Chemical restraint may include a drug that is
 3 administered to manage a resident's behavior in a way that reduces
 4 the safety risk to the resident or others, a drug that has the
 5 temporary effect of restricting the resident's freedom of movement,
 6 or a drug that is not a standard treatment for the resident's
 7 medical or psychiatric condition. As used in this subdivision:

8 (i) "Convenience" means an action taken to control a resident's
 9 behavior with a lesser amount of effort and not in the resident's
 10 best interest.

11 (ii) "Discipline" means an action taken to punish or penalize a
 12 resident.

13 (iii) "Medical symptom" means an indication or characteristic of
 14 a physical or psychological condition.

15 (c) ~~(a)~~ "Criminal abuse" means 1 or more of the following:

16 (i) An assault that is a violation or an attempt or conspiracy
 17 to commit a violation of sections 81 to 90 of the Michigan penal
 18 code, ~~Act No. 328 of the Public Acts of 1931, being sections 750.81~~
 19 ~~to 750.90 of the Michigan Compiled Laws. 1931 PA 328, MCL 750.81 to~~
 20 **750.90**. Criminal abuse does not include an assault or an assault
 21 and battery that is a violation of section 81 of ~~Act No. 328 of the~~
 22 ~~Public Acts of 1939, being section 750.81 of the Michigan Compiled~~
 23 ~~Laws, and the Michigan penal code, 1931 PA 328, MCL 750.81,~~ that is
 24 committed by a recipient against another recipient.

25 (ii) A criminal homicide that is a violation or an attempt or
 26 conspiracy to commit a violation of section 316, 317, or 321 of ~~Act~~
 27 ~~No. 328 of the Public Acts of 1931, being sections 750.316,~~
 28 ~~750.317, and 750.321 of the Michigan Compiled Laws the Michigan~~
 29 **penal code, 1931 PA 328, MCL 750.316, 750.317, and 750.321.**

1 (iii) Criminal sexual conduct that is a violation or an attempt
2 or conspiracy to commit a violation of sections 520b to 520e or
3 520g of ~~Act No. 328 of the Public Acts of 1931, being sections~~
4 ~~750.520b to 750.520e and 750.520g of the Michigan Compiled Laws~~ **the**
5 **Michigan penal code, 1931 PA 328, MCL 750.520b to 750.250e and**
6 **750.520g.**

7 (iv) Vulnerable adult abuse that is a violation or an attempt
8 or conspiracy to commit a violation of section 145n of the Michigan
9 penal code, ~~Act No. 328 of the Public Acts of 1931, being section~~
10 ~~750.145n of the Michigan Compiled Laws~~ **1931 PA 328, MCL 750.145n.**

11 (v) Child abuse that is a violation or an attempt or
12 conspiracy to commit a violation of section 136b of ~~Act No. 328 of~~
13 ~~the Public Acts of 1931, being section 750.136b of the Michigan~~
14 ~~Compiled Laws~~ **the Michigan penal code, 1931 PA 328, MCL 750.136b.**

15 (d) **"Debrief" means a discussion of the incident specifics**
16 **following a restraint or seclusion event. Debrief includes details**
17 **of the pre-incident circumstances, the intervention method employed**
18 **and the incident's outcome.**

19 (e) ~~(b)~~ "Health care corporation" means a nonprofit health
20 care corporation operating under the nonprofit health care
21 corporation reform act, ~~Act No. 350 of the Public Acts of 1980,~~
22 ~~being sections 550.1101 to 550.1704 of the Michigan Compiled Laws~~
23 **1980 PA 350, MCL 550.1101 to 550.1704.**

24 (f) ~~(e)~~ "Health care insurer" means an insurer authorized to
25 provide health insurance in this state or a legal entity that is
26 self-insured and provides health care benefits to its employees.

27 (g) ~~(d)~~ "Health maintenance organization" means ~~an~~
28 ~~organization licensed under part 210 of the public health code, Act~~
29 ~~No. 368 of the Public Acts of 1978, being sections 333.21001 to~~

1 ~~333.21098 of the Michigan Compiled Laws~~ that term as defined in
2 section 3501 of the insurance code of 1956, 1956 PA 218, MCL
3 500.3501.

4 (h) "Less restrictive therapeutic intervention" means a
5 professionally recognized strategy that is intended to recognize
6 the early sign of impending dangerous behavior, to identify and
7 ameliorate the cause of that behavior, and to implement a
8 nonaversive technique to minimize the consequence of a patient's
9 potentially harmful behavior.

10 (i) ~~(e)~~ "Money" means any legal tender, note, draft,
11 certificate of deposit, stock, bond, check, or credit card.

12 (j) ~~(f)~~ "Nonprofit dental care corporation" means a dental
13 care corporation incorporated under ~~Act No. 125 of the Public Acts~~
14 ~~of 1963, being sections 550.351 to 550.373 of the Michigan Compiled~~
15 ~~Laws~~ 1963 PA 125, MCL 550.351 to 550.373.

16 (k) ~~(g)~~ "Person-centered planning" means a process for
17 planning and supporting the individual receiving services that
18 builds upon the individual's capacity to engage in activities that
19 promote community life and that honors the individual's
20 preferences, choices, and abilities. The person-centered planning
21 process involves families, friends, and professionals as the
22 individual desires or requires.

23 (l) ~~(h)~~ "Privileged communication" means a communication made
24 to a psychiatrist or psychologist in connection with the
25 examination, diagnosis, or treatment of a patient, or to another
26 person while the other person is participating in the examination,
27 diagnosis, or treatment or a communication made privileged under
28 other applicable state or federal law.

29 (m) "Prone immobilization" means a manual method of restraint

1 of a patient in a prone position, usually on the floor, where force
 2 is applied to the patient's body in a manner that prevents him or
 3 her from moving out of the prone position.

4 (n) ~~(i)~~ "Restraint" means ~~the use of a physical device to~~
 5 ~~restrict an individual's movement.~~ a manual method, physical or
 6 mechanical device, or equipment that immobilizes or reduces the
 7 ability of a patient to move his or her arms, legs, body, or head
 8 freely. Restraint includes chemical restraint. Restraint includes
 9 physically holding a resident for forced medication, medical
 10 treatment, or laboratory study. Restraint does not include the use
 11 of a device primarily intended to provide anatomical support. As
 12 used in this subdivision, "medical symptom" means an indication or
 13 characteristic or a physical or psychological condition.

14 (o) ~~(j)~~ "Seclusion" means the temporary placement of a
 15 recipient in a room, alone, where egress is prevented by any means.

16 (p) "Standard treatment or dosage for the resident's
 17 condition" means 1 or more of the following:

18 (i) A medication used within the pharmaceutical parameters
 19 approved by the United States Food and Drug Administration and the
 20 manufacturer for the indications that it is manufactured and
 21 labeled to address, including listed dosage parameters.

22 (ii) Use of the medication that follows national practice
 23 standards established or recognized by the medical community or
 24 professional medical associations or organizations.

25 (iii) Use of the medication to treat a specific resident's
 26 clinical condition is based on that resident's symptoms, overall
 27 clinical situation, and on the physician's or other licensed
 28 independent practitioner's knowledge of that resident's expected
 29 and actual response to the medication.

1 (q) ~~(k)~~—"Support plan" means a written plan that specifies the
2 personal support services or any other supports that are to be
3 developed with and provided for a recipient.

4 (r) ~~(l)~~—"Treatment plan" means a written plan that specifies
5 the goal-oriented treatment or training services, including
6 rehabilitation or habilitation services, that are to be developed
7 with and provided for a recipient.

8 Sec. 740. (1) A resident shall not be placed in ~~physical~~
9 restraint **or seclusion** except in the circumstances and under the
10 conditions set forth in this section or in other law. **Restraint or**
11 **seclusion must not be imposed as a means of coercion, discipline,**
12 **or retaliation by staff members.**

13 (2) Restraint or seclusion may only be imposed to ensure the
14 immediate physical safety of the resident, staff member, or others
15 and must be discontinued at the earliest possible time, except
16 chemical restraint which shall continue until the intended effects
17 are no longer observed.

18 (3) An order for using restraint or seclusion must not be
19 written as a standing order or on an as needed basis.

20 (4) Restraint or seclusion may only be used when less
21 restrictive intervention has been determined to be ineffective to
22 protect the resident, staff member, or others from harm.

23 (5) The type or technique of restraint or seclusion used must
24 be the least restrictive intervention that will be effective to
25 protect the resident, staff member, or others from harm. The use of
26 prone immobilization is prohibited unless implementation of other
27 techniques is medically contraindicated and documented in the
28 resident's record.

29 (6) Seclusion and mechanical restraint, as defined in section

1 2b of 1973 PA 116, MCL 722.112b, shall be used only in a hospital.

2 (7) An order for restraint or seclusion must be by a physician
3 or an authorized licensed practitioner who is trained in the agency
4 policy regarding the use of restraint and seclusion. Inpatient
5 psychiatric services for beneficiaries under 21 years of age must
6 be provided under the direction of a physician as required by 42
7 CFR 441.151, as follows:

8 (a) If the resident's treating physician is available, only he
9 or she can order restraint or seclusion.

10 (b) The resident's treating physician must be consulted as
11 soon as possible if the treating physician did not order the
12 restraint or seclusion.

13 (8) ~~(2)~~ A resident may be restrained ~~only as provided in~~
14 ~~subsection (3), (4), or (5)~~ **or secluded** after less restrictive
15 **therapeutic** interventions have been considered, and only if
16 ~~restraint~~ **it** is essential in order to prevent the resident from
17 physically harming himself, herself, **a staff member**, or others. ~~r~~
18 ~~or in order to prevent him or her from causing substantial property~~
19 ~~damage.~~ Consideration of less restrictive ~~measures shall~~
20 **interventions must** be documented in the medical record. ~~If~~
21 ~~restraint is essential in order to prevent the resident from~~
22 ~~physically harming himself, herself, or others, the resident may be~~
23 ~~physically held with no more force than is necessary to limit the~~
24 ~~resident's movement, until a restraint may be applied.~~ **Seclusion**
25 **must not be used if the intervention is essential to prevent the**
26 **resident from harming himself or herself.**

27 (9) ~~(3)~~ A resident may be temporarily restrained for a maximum
28 of 30 minutes without an order ~~or authorization~~ in an emergency
29 **situation**. Immediately after imposition of the temporary restraint,

1 a physician ~~shall~~ **or authorized licensed practitioner must** be
 2 contacted. If, after being contacted, the physician **or authorized**
 3 **licensed practitioner** does not order ~~or authorize~~ the restraint,
 4 the restraint ~~shall~~ **must** be removed.

5 (10) ~~(4)~~ A resident may be restrained ~~prior to~~ **or secluded**
 6 **before** examination ~~pursuant~~ **according** to an ~~authorization~~ **a verbal**
 7 **order** by a physician **or authorized licensed practitioner if the**
 8 **verbal order is received by a registered nurse.** An ~~authorized~~
 9 ~~restraint may continue only until a physician can personally~~
 10 ~~examine the resident or for 2 hours, whichever is less. If it is~~
 11 ~~not possible for the physician to examine the resident within 2~~
 12 ~~hours, a physician may reauthorize the restraint for another 2~~
 13 ~~hours. Authorized restraint may not continue for more than 4~~
 14 ~~hours.~~ **The resident must be personally examined within 1 hour after**
 15 **initiating restraint or seclusion by a physician or authorized**
 16 **licensed practitioner to evaluate all of the following:**

- 17 (a) **The resident's immediate situation.**
 18 (b) **The resident's reaction to the intervention.**
 19 (c) **The resident's medical and behavioral condition.**
 20 (d) **The need to continue or terminate the restraint or**
 21 **seclusion.**

22 (11) ~~(5)~~ A resident may be restrained ~~pursuant~~ **or secluded**
 23 **according** to an order by a physician **or authorized licensed**
 24 **practitioner** made after personal examination of the resident. ~~An~~
 25 ~~ordered restraint shall continue only for that period of time~~
 26 ~~specified in the order or for 8 hours, whichever is less.~~ **Each order**
 27 **for restraint or seclusion shall continue only for the period of**
 28 **time specified in the order or for up to the following limits,**
 29 **whichever is less, for up to a total of 24 hours:**

1 (a) Four hours for an adult 18 years of age or older.

2 (b) Two hours for a child or an adolescent 9 to 17 years of
3 age.

4 (c) One hour for a child under 9 years of age.

5 (12) After 24 hours, before writing a new order, a physician
6 or authorized licensed practitioner who is responsible for the
7 resident's care must see and assess the resident.

8 (13) ~~(6)~~A restrained or secluded resident shall ~~must~~ continue
9 to receive food, ~~shall~~ ~~must~~ remain clothed or otherwise covered
10 unless his or her actions make it impractical or inadvisable, must
11 be kept in sanitary conditions, ~~shall be clothed or otherwise~~
12 ~~covered, shall and must~~ be given access to toilet facilities, ~~and~~
13 ~~shall be given the opportunity to sit or lie down.~~A secluded
14 resident must be provided a bed or similar piece of furniture
15 unless his or her actions make it impractical or inadvisable.

16 (14) ~~(7)~~ Restraints shall ~~A restraint or seclusion must be~~
17 discontinued whenever the circumstance that justified its use
18 ceases to exist, regardless of the length of the order. A restraint
19 must be removed every 2 hours for not less than 15 minutes unless
20 medically ~~clinically~~ contraindicated. ~~or whenever they are no~~
21 ~~longer essential in order to achieve the objective which justified~~
22 ~~their initial application.~~

23 (15) ~~(8)~~ Each instance of restraint requires full
24 justification for its application, and the results of each periodic
25 examination ~~shall~~ ~~must~~ be placed promptly in the resident's record.
26 ~~of the resident.~~

27 (16) Each instance of restraint or seclusion requires
28 debriefing to reverse or minimize the negative effect of its use
29 and to prevent future instances of restraint or seclusion.

1 (17) ~~(9)~~—If a resident is restrained **or secluded** repeatedly,
2 the resident's individual plan of services ~~shall~~**must** be reviewed
3 and modified to facilitate the reduction of the use of
4 restraints.**restraint or seclusion.**

5 Enacting section 1. Section 742 of the mental health code,
6 1974 PA 258, MCL 330.1742, is repealed.

7 Enacting section 2. This amendatory act takes effect 90 days
8 after the date it is enacted into law.

SENATE BILL NO. 249

April 11, 2023, Introduced by Senators HERTEL, MCMORROW, WOJNO, POLEHANKI, HUIZENGA, MCBROOM, MCDONALD RIVET, BAYER, SINGH and HOITENGA and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 20904, 20912, 20950, 20952, and 20954 (MCL 333.20904, 333.20912, 333.20950, 333.20952, and 333.20954), sections 20904, 20912, and 20954 as amended by 2000 PA 375, section 20950 as amended by 2021 PA 25, and section 20952 as added by 1990 PA 179.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20904. (1) "Education program sponsor" means a person,
2 other than an individual, that meets the standards of the
3 department to conduct training at the following levels:

4 (a) Medical first responder.

5 (b) Emergency medical technician.

6 (c) Emergency medical technician specialist.

7 (d) Paramedic.

8 (e) Emergency medical services instructor-coordinator.

9 (2) "Emergency" means a condition or situation in which an
10 individual declares a need for immediate medical attention for any
11 individual, or where that need is declared by emergency medical
12 services personnel or a public safety official.

13 (3) "Emergency medical services instructor-coordinator" means
14 an individual licensed under this part to conduct and instruct
15 emergency medical services education programs.

16 (4) "Emergency medical services" means the emergency medical
17 services personnel, ambulances, nontransport prehospital life
18 support vehicles, aircraft transport vehicles, medical first
19 response vehicles, and equipment required for transport or
20 treatment of an individual requiring medical first response life
21 support, basic life support, limited advanced life support, or
22 advanced life support.

23 (5) "Emergency medical services personnel" means a medical
24 first responder, emergency medical technician, emergency medical
25 technician specialist, paramedic, or emergency medical services
26 instructor-coordinator.

27 (6) "Emergency medical services system" means a comprehensive
28 and integrated arrangement of the personnel, facilities, equipment,
29 services, communications, medical control, and organizations

1 necessary to provide emergency medical services and trauma care
2 within a particular geographic region.

3 (7) "Emergency medical technician" means an individual who is
4 licensed by the department to provide basic life support.

5 (8) "Emergency medical technician specialist" means an
6 individual who is licensed by the department to provide limited
7 advanced life support.

8 (9) "Emergency patient" means an individual with a physical or
9 mental condition that manifests itself by acute symptoms of
10 sufficient severity, including, but not limited to, pain such that
11 a prudent layperson, possessing average knowledge of health and
12 medicine, could reasonably expect to result in 1 or all of the
13 following:

14 (a) Placing the health of the individual or, in the case of a
15 pregnant woman, the health of the patient or the unborn child, or
16 both, in serious jeopardy.

17 (b) Serious impairment of bodily function.

18 (c) Serious dysfunction of a body organ or part.

19 ~~(10) "Examination" means a written and practical evaluation~~
20 ~~approved or developed by the national registry of emergency medical~~
21 ~~technicians or other organization with equivalent national~~
22 ~~recognition and expertise in emergency medical services personnel~~
23 ~~testing and approved by the department.~~

24 Sec. 20912. (1) The department shall perform all of the
25 following with regard to educational programs and services:

26 (a) Review and approve education program sponsors, ongoing
27 education program sponsors, and curricula for emergency medical
28 services personnel. Approved education programs and refresher
29 programs ~~shall~~ **must** be coordinated by a licensed emergency medical

1 services instructor-coordinator commensurate with level of
2 licensure. Approved programs conducted by ongoing education program
3 sponsors ~~shall~~**must** be coordinated by a licensed emergency medical
4 services instructor-coordinator.

5 (b) Maintain a listing of approved education program sponsors
6 and licensed emergency medical services instructor-coordinators.

7 (c) Develop and implement standards for all education program
8 sponsors and ongoing education program sponsors based upon criteria
9 recommended by the emergency medical services coordination
10 committee and developed by the department.

11 (2) An education program sponsor that conducts education
12 programs for paramedics and that receives accreditation from the
13 joint review committee on educational programs for the EMT-
14 paramedic or other organization approved by the department as
15 having equivalent expertise and competency in the accreditation of
16 paramedic education programs is considered approved by the
17 department under subsection (1) (a) if the education program sponsor
18 meets both of the following requirements:

19 (a) Submits an application to the department that includes
20 verification of accreditation described in this subsection.

21 (b) Maintains accreditation as described in this subsection.

22 **(3) Before offering an education program to an individual**
23 **seeking to become licensed as a paramedic, an education program**
24 **sponsor that is not accredited as described under subsection (2)**
25 **shall inform the individual that the education program sponsor is**
26 **not accredited as described under subsection (2).**

27 Sec. 20950. (1) An individual shall not practice or advertise
28 to practice as a medical first responder, emergency medical
29 technician, emergency medical technician specialist, paramedic, or

1 emergency medical services instructor-coordinator unless licensed
2 by the department under this section.

3 (2) The department shall issue a license under this section
4 only to an individual who meets all of the following requirements:

5 (a) Is 18 years of age or older.

6 (b) Meets either of the following requirements:

7 (i) Has successfully completed the appropriate education
8 program approved under section 20912.

9 (ii) While serving as a member of the armed forces, served as a
10 military health care specialist and was separated from service with
11 an honorable character of service or under an honorable conditions
12 (general) character of service in the 2-year period preceding the
13 date the license application is filed. The applicant shall provide
14 a form DD214, DD215, or any other form that is satisfactory to the
15 department to meet the criteria established in this subparagraph.
16 This subparagraph only applies to an applicant for a license as an
17 emergency medical technician.

18 (c) Subject to subsection (3), has attained a passing score on
19 the appropriate department prescribed examination, as follows:

20 (i) A medical first responder must pass the written examination
21 proctored by the department or the department's designee and a
22 practical examination approved by the department. The instructors
23 of the medical first responder course shall administer the
24 practical examination. The department or the department's designee
25 may also proctor the practical examination. The individual shall
26 pay the fee for the written examination required under this
27 subparagraph directly to the National Registry of Emergency Medical
28 Technicians or other organization approved by the department. **As**
29 **used in this subparagraph, "examination" means an evaluation**

1 approved or developed by the National Registry of Emergency Medical
2 Technicians or another organization with equivalent national
3 recognition and expertise in emergency medical services personnel
4 testing and approved by the department.

5 (ii) An emergency medical technician ~~or~~ emergency medical
6 technician specialist ~~or paramedic~~ must pass the written
7 examination proctored by the department or the department's
8 designee and a practical examination proctored by the department or
9 the department's designee. The individual shall pay the fee for the
10 written examination required under this subparagraph directly to
11 the National Registry of Emergency Medical Technicians or other
12 organization approved by the department. **As used in this**
13 **subparagraph, "examination" means an evaluation approved or**
14 **developed by the National Registry of Emergency Medical Technicians**
15 **or another organization with equivalent national recognition and**
16 **expertise in emergency medical services personnel testing and**
17 **approved by the department.**

18 (iii) A paramedic must pass either of the following:

19 (A) A written and practical examination developed or
20 prescribed by the department other than an examination defined in
21 sub-subparagraph (B).

22 (B) The written examination proctored by the department or the
23 department's designee and a practical examination proctored by the
24 department or the department's designee. An individual who takes
25 the examination described in this sub-subparagraph shall pay the
26 fee for the examination directly to the National Registry of
27 Emergency Medical Technicians or another organization approved by
28 the department. **As used in this sub-subparagraph, "examination"**
29 **means an evaluation approved or developed by the National Registry**

1 of Emergency Medical Technicians or another organization with
2 equivalent national recognition and expertise in emergency medical
3 services personnel testing and approved by the department.

4 (d) Meets other requirements of this part.

5 (3) The department shall require for purposes of compliance
6 with subsection (2)(c) successful passage by each first-time
7 applicant of ~~an~~**the applicable examination described in that**
8 **subsection. Not later than 2 years after the effective date of the**
9 **amendatory act that added this sentence, the department shall**
10 **develop or prescribe the examination described in subsection**
11 **(2)(c)(iii)(A).**

12 (4) The department shall issue a license as an emergency
13 medical services instructor-coordinator only to an individual who
14 meets the requirements of subsection (2) for an emergency medical
15 services instructor-coordinator and at the time of application is
16 currently licensed as a medical first responder, emergency medical
17 technician, emergency medical technician specialist, or paramedic
18 and has at least 3 years' field experience with a licensed life
19 support agency as a medical first responder, emergency medical
20 technician, emergency medical technician specialist, or paramedic.
21 The department shall provide for the development and administration
22 of an examination for emergency medical services instructor-
23 coordinators. The license must specify the level of instruction-
24 coordination the individual is licensed to provide. An emergency
25 medical services instructor-coordinator shall not instruct or
26 coordinate emergency medical training courses at a level that
27 exceeds his or her designated level of licensure and for which he
28 or she does not have at least 3 years' field experience at that
29 level of licensure.

1 (5) Except as otherwise provided in section 20952, a license
2 under this section is effective for 3 years from the date of
3 issuance unless revoked or suspended by the department.

4 (6) Except as otherwise provided in this section, an applicant
5 for licensure under this section shall pay the following triennial
6 licensure fees:

7 (a) Medical first responder - no fee.

8 (b) Emergency medical technician - \$40.00.

9 (c) Emergency medical technician specialist - \$60.00.

10 (d) Paramedic - \$80.00.

11 (e) Emergency medical services instructor-coordinator -
12 \$100.00.

13 (7) If a life support agency certifies to the department that
14 an applicant for licensure under this section will act as a
15 volunteer and if the life support agency does not charge for its
16 services, the department shall not require the applicant to pay the
17 fee required under subsection (6). If the applicant ceases to meet
18 the definition of a volunteer under this part at any time during
19 the effective period of his or her license and is employed as a
20 licensee under this part, the applicant shall at that time pay the
21 fee required under subsection (6).

22 (8) The department shall waive the fee required under
23 subsection (6) for the initial license if the applicant for initial
24 licensure was separated from service with an honorable character of
25 service or under honorable conditions (general) character of
26 service in the armed forces. The applicant shall provide a form
27 DD214, DD215, or any other form that is satisfactory to the
28 department to be eligible for the waiver of the fee under this
29 subsection.

1 (9) The department may charge a fee for an applicant taking
2 the examination described in section 20950(2)(c)(iii)(A), in an
3 amount that does not exceed the fee for an applicant taking the
4 examination described in section 20950(2)(c)(iii)(B).

5 (10) ~~(9)~~As used in this section, "armed forces" means that
6 term as defined in section 16103.

7 Sec. 20952. (1) The department may grant a nonrenewable
8 temporary license to an individual who has made proper application
9 with the required fee for licensure as a medical first responder,
10 emergency medical technician, emergency medical technician
11 specialist, or paramedic and who has successfully completed all of
12 the requirements for licensure except for the ~~department prescribed~~
13 examinations **described in section 20950**. A temporary license is
14 valid for 120 days from the date of an accepted application.

15 (2) An individual holding a temporary license as an emergency
16 medical technician shall practice only under the direct supervision
17 of an emergency medical technician, emergency medical technician
18 specialist, or paramedic who holds a license other than a temporary
19 license.

20 (3) An individual holding a temporary license as an emergency
21 medical technician specialist shall practice only under the direct
22 supervision of an emergency medical technician specialist or
23 paramedic who holds a license other than a temporary license.

24 (4) An individual holding a temporary license as a paramedic
25 shall practice only under the direct supervision of a paramedic who
26 holds a license other than a temporary license.

27 Sec. 20954. (1) Upon proper application to the department and
28 payment of the renewal fee under subsection (2), the department may
29 renew an emergency medical services personnel license if the

1 applicant meets the requirements of this part and provides, upon
2 request of the department, verification of having met ongoing
3 education requirements established by the department. If an
4 applicant for renewal fails to provide the department with a change
5 of address, the applicant shall pay a \$20.00 fee in addition to the
6 renewal and late fees required under subsections (2) and (3).

7 (2) Except as otherwise provided in subsection (5), an
8 applicant for renewal of a license under section 20950 shall pay a
9 renewal fee as follows:

10 (a) Medical first responder - no fee.

11 (b) Emergency medical technician - \$25.00.

12 (c) Emergency medical technician specialist - \$25.00.

13 (d) Paramedic - \$25.00.

14 (e) Emergency medical services instructor-coordinator -
15 \$25.00.

16 (3) Except as otherwise provided in subsection (5), if an
17 application for renewal under subsection (1) is postmarked after
18 the date the license expires, the applicant shall pay a late fee in
19 addition to the renewal fee under subsection (2) as follows:

20 (a) Medical first responder - \$50.00.

21 (b) Emergency medical technician - \$50.00.

22 (c) Emergency medical technician specialist - \$50.00.

23 (d) Paramedic - \$50.00.

24 (e) Emergency medical services instructor-coordinator -
25 \$50.00.

26 (4) A license or registration ~~shall~~**must** be renewed by the
27 licensee on or before the expiration date as prescribed by rule.
28 The department shall mail a notice to the licensee at the last
29 known address on file with the department advising of the time,

1 procedure, and fee for renewal. Failure of the licensee to receive
2 notice under this subsection does not relieve the licensee of the
3 responsibility for renewing his or her license. A license not
4 renewed by the expiration date may be renewed within 60 days of the
5 expiration date upon application, payment of renewal and late
6 renewal fees, and fulfillment of any continued continuing education
7 requirements set forth in rules promulgated under this article. The
8 licensee may continue to practice and use the title during the 60-
9 day period. If a license is not so renewed within 60 days of the
10 expiration date, the license is void. The licensee shall not
11 practice or use the title. An individual may be relicensed within 3
12 years of the expiration date upon application, payment of the
13 application processing, renewal, and late renewal fees, and
14 fulfillment of any continuing education requirements in effect at
15 the time of the expiration date, or that would have been required
16 had the individual renewed his or her license pursuant to
17 subsection (1). An individual may be relicensed more than 3 years
18 after the expiration date upon application as a new applicant,
19 meeting all licensure requirements in effect at the time of
20 application, taking or retaking and passing any **applicable**
21 examinations **described in section 20950** required for initial
22 licensure, and payment of fees required of new applicants.

23 (5) If a life support agency certifies to the department that
24 an applicant for renewal under this section is a volunteer and if
25 the life support agency does not charge for its services, the
26 department shall not require the applicant to pay the fee required
27 under subsection (2) or a late fee under subsection (3). If the
28 applicant for renewal ceases to meet the definition of a volunteer
29 under this part at any time during the effective period of his or

1 her license renewal and is employed as a licensee under this part,
2 the applicant for renewal shall at that time pay the fee required
3 under subsection (2).

4 (6) An individual seeking renewal under this section is not
5 required to maintain national registry status as a condition of
6 license renewal.

HOUSE BILL NO. 4358

April 11, 2023, Introduced by Reps. Steckloff, Breen, Morgan, Dievendorf, Coffia, Conlin, Byrnes, Hood, Paiz, McFall, Wegela, Tsernoglou, Brabec, Rheingans and Weiss and referred to the Committee on Labor.

A bill to amend 1927 PA 372, entitled

"An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices; to prohibit the buying, selling, or carrying of certain firearms, gas ejecting devices, and electro-muscular disruption devices without a license or other authorization; to provide for the forfeiture of firearms and electro-muscular disruption devices under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to

carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,"

by amending section 5f (MCL 28.425f), as amended by 2015 PA 3.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5f. (1) An individual who is licensed to carry a
2 concealed pistol shall have ~~his or her~~ **the individual's** license to
3 carry that pistol and ~~his or her~~ **the individual's** state-issued
4 driver license or personal identification card in ~~his or her~~ **the**
5 **individual's** possession at all times ~~he or she~~ **the individual** is
6 carrying a concealed pistol or a portable device that uses electro-
7 muscular disruption technology.

8 (2) An individual who is licensed to carry a concealed pistol
9 and who is carrying a concealed pistol or a portable device that
10 uses electro-muscular disruption technology shall show both of the
11 following to a peace officer upon request by that peace officer:

12 (a) ~~His or her~~ **The individual's** license to carry a concealed
13 pistol.

14 (b) ~~His or her~~ **The individual's** state-issued driver license or
15 personal identification card.

16 (3) An individual licensed under this act to carry a concealed
17 pistol and who is carrying a concealed pistol or a portable device
18 that uses electro-muscular disruption technology and who is stopped
19 by a peace officer **or who encounters, in an official capacity, a**
20 **firefighter or emergency medical services personnel** shall
21 immediately disclose to the peace officer, **firefighter, or**
22 **emergency medical services personnel** that ~~he or she~~ **the individual**
23 is carrying a pistol or a portable device that uses electro-
24 muscular disruption technology concealed upon ~~his or her~~ **the**
25 **individual's** person or in ~~his or her~~ **the individual's** vehicle.

1 (4) An individual who violates subsection (1) or (2) is
2 responsible for a state civil infraction and shall be fined
3 \$100.00.

4 (5) An individual who violates subsection (3) is responsible
5 for a state civil infraction and shall be fined as follows:

6 (a) For a first offense, by a fine of \$500.00 and by the
7 individual's license to carry a concealed pistol being suspended
8 for 6 months.

9 (b) For a subsequent offense within 3 years ~~of~~**after** a prior
10 offense, by a fine of \$1,000.00 and by the individual's license to
11 carry a concealed pistol being revoked.

12 (6) If an individual is found responsible for a state civil
13 infraction under subsection (5), the peace officer, **firefighter, or**
14 **emergency medical services personnel** shall notify the department of
15 state police of that civil infraction. The department of state
16 police shall notify the county clerk who issued the license, who
17 shall suspend or revoke that license. The county clerk shall send
18 notice by first-class mail of that suspension or revocation to the
19 individual's last known address as indicated in the records of the
20 county clerk. The department of state police shall immediately
21 enter that suspension or revocation into the law enforcement
22 information network.

23 (7) A pistol or portable device that uses electro-muscular
24 disruption technology carried in violation of this section is
25 subject to immediate seizure by a peace officer. If a peace officer
26 seizes a pistol or portable device that uses electro-muscular
27 disruption technology under this subsection, the individual has 45
28 days in which to display ~~his or her~~**the individual's** license or
29 documentation to an authorized employee of the law enforcement

1 entity that employs the peace officer. If the individual displays
 2 ~~his or her~~ **the individual's** license or documentation to an
 3 authorized employee of the law enforcement entity that employs the
 4 peace officer within the 45-day period, the authorized employee of
 5 that law enforcement entity shall return the pistol or portable
 6 device that uses electro-muscular disruption technology to the
 7 individual unless the individual is prohibited by law from
 8 possessing a firearm or portable device that uses electro-muscular
 9 disruption technology. If the individual does not display ~~his or~~
 10 ~~her~~ **the individual's** license or documentation within the 45-day
 11 period, the pistol or portable device that uses electro-muscular
 12 disruption technology is subject to forfeiture as provided in
 13 section 5g. A pistol or portable device that uses electro-muscular
 14 disruption technology is not subject to immediate seizure under
 15 this subsection if both of the following circumstances exist:

16 (a) The individual has ~~his or her~~ **the individual's** state-
 17 issued driver license or personal identification card in ~~his or her~~
 18 **the individual's** possession when the violation occurs.

19 (b) The peace officer verifies through the law enforcement
 20 information network that the individual is licensed to carry a
 21 concealed pistol.

22 (8) As used in this section: ~~"peace~~

23 (a) **"Emergency medical services personnel"** means that term as
 24 defined in section 20904 of the public health code, 1978 PA 368,
 25 MCL 333.20904.

26 (b) **"Firefighter"** means that term as defined in section 1 of
 27 the fire prevention code, 1941 PA 207, MCL 29.1.

28 (c) **"Peace officer"** includes a motor carrier officer appointed
 29 under section 6d of 1935 PA 59, MCL 28.6d, and security personnel

1 employed by the state under section 6c of 1935 PA 59, MCL 28.6c.

SENATE BILL NO. 69

February 16, 2023, Introduced by Senators THEIS, GEISS, CHANG, LAUWERS, BELLINO, BAYER, SHINK, WOJNO, MCCANN, CAVANAGH and POLEHANKI and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding sections 16279 and 16279a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 16279. (1) Except as otherwise provided in this section,**
2 **a licensee or registrant shall not perform a medical treatment,**
3 **procedure, or examination on a patient who is a minor that involves**
4 **the vaginal or anal penetration of the minor unless all of the**
5 **following are met:**

1 (a) The medical treatment, procedure, or examination is within
2 the scope of practice of the licensee's or registrant's health
3 profession.

4 (b) A medical assistant or another licensee or registrant is
5 in the room while the medical treatment, procedure, or examination
6 is performed. The person providing consent under subdivision (c)
7 may waive the requirement described in this subdivision.

8 (c) Before performing the medical treatment, procedure, or
9 examination, the licensee or registrant obtains the written consent
10 of a parent, guardian, or person in loco parentis of the minor or
11 the consent of any person that is authorized by law to provide
12 consent, on the form created in section 16279a or on another form
13 that includes the same information as the form created in section
14 16279a. The written consent described in this subdivision may be
15 obtained through electronic means.

16 (2) A licensee or registrant who obtains the consent required
17 under subsection (1) for a medical treatment, procedure, or
18 examination that requires subsequent visits to perform the same
19 treatment, procedure, or examination on the minor may perform the
20 subsequent treatment, procedure, or examination on the minor
21 without obtaining the consent required under subsection (1) if the
22 subsequent treatment, procedure, or examination is performed within
23 6 months from the date of obtaining the consent required under
24 subsection (1).

25 (3) Subsection (1) does not apply in any of the following
26 circumstances:

27 (a) If the medical treatment, procedure, or examination is
28 necessary and is associated with or incident to a medical
29 emergency. As used in this subdivision, "medical emergency" means a

1 circumstance that, in the licensee's or registrant's good-faith
2 medical judgment, creates an immediate threat of serious risk to
3 the life or physical health of the patient.

4 (b) If the medical treatment, procedure, or examination
5 primarily relates to the patient's urological, gastrointestinal,
6 reproductive, gynecological, or sexual health.

7 (c) If the medical treatment, procedure, or examination is
8 performed at a children's advocacy center. As used in this
9 subdivision, "children's advocacy center" means that term as
10 defined in section 2 of the child protection law, 1975 PA 238, MCL
11 722.622.

12 (d) If the medical treatment, procedure, or examination is
13 performed for purposes of a sexual assault medical forensic
14 examination under section 21527.

15 (e) If the medical treatment, procedure, or examination is
16 performed for the purpose of measuring the patient's temperature.

17 (f) If the medical treatment, procedure, or examination is
18 performed for the purpose of rectally administering a drug or
19 medicine.

20 (4) The consent form required under subsection (1) must be
21 maintained in a patient's medical record for not less than 15 years
22 from the date on which the medical treatment, procedure, or
23 examination was performed.

24 (5) A person that knowingly violates subsection (1) is guilty
25 of a felony punishable as follows:

26 (a) For the first offense, by imprisonment for not more than 2
27 years or a fine of not more than \$5,000.00, or both.

28 (b) For a second or subsequent offense, by imprisonment for
29 not more than 5 years or a fine of not more than \$10,000.00, or

1 both.

2 (6) This section does not prohibit a person from being charged
3 with, convicted of, or punished for any other violation of law that
4 is committed by that person while violating this section.

5 (7) A court may order a term of imprisonment imposed for a
6 violation of this section to be served consecutively to a term of
7 imprisonment imposed for any other crime, including any other
8 violation of law arising out of the same transaction as the
9 violation of this section.

10 Sec. 16279a. (1) The department shall create and may
11 periodically update a standardized consent form to be used by a
12 licensee or registrant who provides a medical treatment, procedure,
13 or examination to a minor under section 16279. The department shall
14 use generally accepted standards of medical practice in determining
15 the information to be included on the form. The form must include
16 at least all of the following statements:

17 (a) That gloves are generally used for a medical treatment,
18 procedure, or examination involving vaginal or anal penetration.

19 (b) That the person providing consent under section 16279 has
20 the right to request information on whether there is a reasonable
21 alternative to the treatment, procedure, or examination that does
22 not consist of anal or vaginal penetration.

23 (c) That the person providing consent under section 16279 has
24 the right to request a clear explanation of the nature of the
25 treatment, procedure, or examination.

26 (d) That the person providing consent under section 16279 may
27 request that gloves be used during the treatment, procedure, or
28 examination.

29 (e) That a licensee or registrant generally cannot be alone in

1 the room with the patient while the treatment, procedure, or
2 examination is being performed.

3 (2) The department shall make the form publicly available on
4 its website.

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

SENATE BILL NO. 71

February 16, 2023, Introduced by Senators HAUCK, GEISS, CHANG, LAUWERS, BELLINO, BAYER, SHINK, WOJNO, MCCANN, CAVANAGH and POLEHANKI and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16213, 20175, 20175a, and 20199 (MCL
333.16213, 333.20175, 333.20175a, and 333.20199), sections 16213
and 20175a as added and section 20175 as amended by 2006 PA 481,
and by adding sections 16213a, 16429, 17029, 17529, 17829, 17909,

and 20175b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16213. (1) ~~An individual licensed under this article~~ **A**
 2 **licensee** shall keep and maintain a record for each patient for whom
 3 ~~he or she~~ **the licensee** has provided medical services, including a
 4 full and complete record of tests and examinations performed,
 5 observations made, and treatments provided. **If a medical service**
 6 **provided to a patient on or after the effective date of the**
 7 **amendatory act that added this sentence involves the vaginal or**
 8 **anal penetration of the patient, a licensee shall expressly state**
 9 **in the patient's record that vaginal or anal penetration was**
 10 **performed unless the medical service meets any of the circumstances**
 11 **described in subsection (2) (b) (i), (ii), (iii), or (iv).**

12 (2) Unless a longer retention period is otherwise required
 13 under federal or state laws or regulations or by generally accepted
 14 standards of medical practice, a licensee shall keep and retain
 15 each record ~~for~~ **required under subsection (1) as follows:**

16 (a) **Except as otherwise provided in subdivision (b), for a**
 17 **minimum of 7 years from the date of service to which the record**
 18 **pertains.**

19 (b) **If the record is for a medical service performed on or**
 20 **after the effective date of the amendatory act that added this**
 21 **subdivision that involves the vaginal or anal penetration of a**
 22 **patient, for a minimum of 15 years from the date of service to**
 23 **which the record pertains. This subdivision does not apply to a**
 24 **record for any of the following:**

25 (i) **A medical service that primarily relates to the patient's**
 26 **urological, gastrointestinal, reproductive, gynecological, or**
 27 **sexual health.**

1 (ii) A medical service that is necessary and associated with or
2 incident to a medical emergency. As used in this subparagraph,
3 "medical emergency" means a circumstance that, in the licensee's
4 good-faith medical judgment, creates an immediate threat of serious
5 risk to the life or physical health of the patient.

6 (iii) A medical service performed for the purpose of rectally
7 administering a drug or medicine.

8 (iv) A medical service performed to measure a patient's
9 temperature.

10 (3) The records ~~shall~~ **required under subsection (1) must** be
11 maintained in such a manner as to protect their integrity, to
12 ensure their confidentiality and proper use, and to ensure their
13 accessibility and availability to each patient or ~~his or her~~ **the**
14 **patient's** authorized representative as required by law.

15 (4) ~~A~~ **Except as otherwise provided in subsection (7), a**
16 licensee may destroy a record **required under subsection (1)** that is
17 less than 7 years old only if both of the following are satisfied:

18 (a) The licensee sends a written notice to the patient at the
19 last known address of that patient informing the patient that the
20 record is about to be destroyed, offering the patient the
21 opportunity to request a copy of that record, and requesting the
22 patient's written authorization to destroy the record.

23 (b) The licensee receives written authorization from the
24 patient or ~~his or her~~ **the patient's** authorized representative
25 agreeing to the destruction of the record.

26 (5) ~~(2)~~ If a licensee is unable to comply with this section,
27 the licensee shall employ or contract, arrange, or enter into an
28 agreement with another health care provider, a health facility or
29 agency, or a medical records company to protect, maintain, and

1 provide access to those records required under subsection (1).

2 **(6)** ~~(3)~~ If a licensee or registrant sells or closes ~~his or her~~
3 **the licensee's or registrant's** practice, retires from practice, or
4 otherwise ceases to practice under this article, the licensee or
5 the personal representative of the licensee, if the licensee is
6 deceased, shall not abandon the records required under this section
7 and shall send a written notice to the department that specifies
8 who will have custody of the medical records and how a patient may
9 request access to or copies of ~~his or her~~ **the patient's** medical
10 records and shall do either of the following:

11 (a) Transfer the records required under subsection (1) to any
12 of the following:

13 (i) A successor licensee.

14 (ii) If requested by the patient or ~~his or her~~ **the patient's**
15 authorized representative, to the patient or a specific health
16 facility or agency or other health care provider licensed under
17 article 15.

18 (iii) A health care provider, a health facility or agency, or a
19 medical records company with which the licensee had contracted or
20 entered into an agreement to protect, maintain, and provide access
21 to those records required under subsection (1).

22 (b) ~~In~~ **Except as otherwise provided in subsection (7), and in**
23 accordance with ~~subsection (1), subsections (1) to (4),~~ as long as
24 the licensee or the personal representative of the licensee, if the
25 licensee is deceased, sends a written notice to the last known
26 address of each patient for whom ~~he or she~~ **the licensee** has
27 provided medical services and receives written authorization from
28 the patient or ~~his or her~~ **the patient's** authorized representative,
29 destroy the records required under subsection (1). The notice shall

1 **must** provide the patient with 30 days to request a copy of ~~his or~~
 2 ~~her record~~ **the patient's records** or to designate where ~~he or she~~
 3 **the patient** would like ~~his or her~~ **the patient's** medical records
 4 transferred and ~~shall~~ **must** request from the patient within 30 days
 5 written authorization for the destruction of ~~his or her~~ **the**
 6 **patient's** medical records. ~~If~~ **Except as otherwise provided in**
 7 **subsection (7), if** the patient fails to request a copy or transfer
 8 of ~~his or her~~ **the patient's** medical records or to provide the
 9 licensee with written authorization for the destruction, then the
 10 licensee or the personal representative of the licensee shall not
 11 destroy those records that are less than 7 years old but may
 12 destroy, in accordance with subsection ~~(4),~~ **(8)**, those that are 7
 13 years old or older.

14 **(7) A licensee or the personal representative of a licensee,**
 15 **if the licensee is deceased, shall only destroy a record described**
 16 **in subsection (2) (b) in accordance with subsection (8).**

17 **(8) ~~(4)~~ Except as otherwise provided under this section or**
 18 **federal or state laws and regulations, records required to be**
 19 **maintained under subsection (1), other than a record described in**
 20 **subsection (2) (b), may be destroyed or otherwise disposed of after**
 21 **being maintained for 7 years and records described in subsection**
 22 **(2) (b) may be destroyed or otherwise disposed of after being**
 23 **maintained for 15 years.** If records maintained in accordance with
 24 this section are subsequently destroyed or otherwise disposed of,
 25 those records ~~shall~~ **must** be shredded, incinerated, electronically
 26 deleted, or otherwise disposed of in a manner that ensures
 27 continued confidentiality of the patient's health care information
 28 and any other personal information relating to the patient. If
 29 records are **not** destroyed or otherwise disposed of as provided

1 under this subsection, the department may take action, including,
2 but not limited to, contracting for or making other arrangements to
3 ensure that those records and any other confidential identifying
4 information related to the patient are properly destroyed or
5 disposed of to protect the confidentiality of patient's health care
6 information and any other personal information relating to the
7 patient. Before the department takes action in accordance with this
8 subsection, the department, if able to identify the licensee
9 responsible for the improper destruction or disposal of the medical
10 records at issue, shall send a written notice to that licensee at
11 ~~his or her~~ **the licensee's** last known address or place of business
12 on file with the department and provide the licensee with an
13 opportunity to properly destroy or dispose of those medical records
14 as required under this subsection unless a delay in the proper
15 destruction or disposal may compromise the patient's
16 confidentiality. The department may assess the licensee with the
17 costs incurred by the department to enforce this subsection.

18 **(9)** ~~(5) A~~ **Except as otherwise provided in section 16213a, a**
19 **person** ~~who~~ **that** fails to comply with this section is subject to an
20 administrative fine of not more than \$10,000.00 if the failure was
21 the result of gross negligence or willful and wanton misconduct.

22 **(10)** ~~(6)~~ Nothing in this section shall be construed to create
23 or change the ownership rights to any medical records.

24 **(11)** ~~(7)~~ As used in this section:

25 (a) "Medical record" or "record" means information, oral or
26 recorded in any form or medium, that pertains to a patient's health
27 care, medical history, diagnosis, prognosis, or medical condition
28 and that is maintained by a licensee in the process of providing
29 medical services.

1 (b) "Medical records company" means a person who contracts for
2 or agrees to protect, maintain, and provide access to medical
3 records for a health care provider or health facility or agency in
4 accordance with this section.

5 (c) "Patient" means an individual who receives or has received
6 health care from a health care provider or health facility or
7 agency. Patient includes a guardian, if appointed, and a parent,
8 guardian, or person acting in loco parentis, if the individual is a
9 minor, unless the minor lawfully obtained health care without the
10 consent or notification of a parent, guardian, or other person
11 acting in loco parentis, in which case the minor has the exclusive
12 right to exercise the rights of a patient under this section with
13 respect to ~~his or her~~ **the minor's** medical records relating to that
14 care.

15 **Sec. 16213a. (1) Except as otherwise provided in subsections**
16 **(2) and (3), a person that violates section 16213(1) regarding the**
17 **documentation of a medical service involving vaginal or anal**
18 **penetration in a patient's medical record is subject to an**
19 **administrative fine or guilty of a crime as follows:**

20 (a) For a first violation, an administrative fine of not more
21 than \$1,000.00.

22 (b) For a second violation, an administrative fine of not more
23 than \$2,500.00.

24 (c) For a third or subsequent violation, a misdemeanor
25 punishable by imprisonment for not more than 180 days or a fine of
26 not more than \$5,000.00, or both.

27 (2) A person that violates section 16213(1) regarding the
28 documentation of a medical service involving vaginal or anal
29 penetration in a patient's medical record is guilty of a

1 misdemeanor punishable by imprisonment for not more than 180 days
2 or a fine of \$5,000.00, or both, if the violation was the result of
3 gross negligence.

4 (3) A person that intentionally violates section 16213(1)
5 regarding the documentation of a medical service involving vaginal
6 or anal penetration in a patient's medical record is guilty of a
7 felony punishable by imprisonment for not more than 2 years or a
8 fine of not more than \$7,500.00, or both.

9 (4) This section does not limit any other sanction or
10 additional action a disciplinary subcommittee is authorized to
11 impose or take.

12 Sec. 16429. (1) The board shall create a document that
13 provides guidance to licensees on generally accepted standards of
14 practice for services involving vaginal or anal penetration,
15 including internal pelvic floor treatments. In creating the
16 document described in this subsection, the board shall consult with
17 appropriate professional associations and other interested
18 stakeholders.

19 (2) The board shall make the document required under
20 subsection (1) publicly available by 1 year after the effective
21 date of the amendatory act that added this section.

22 Sec. 17029. (1) The board shall create a document that
23 provides guidance to licensees on generally accepted standards of
24 medical practice for medical services involving vaginal or anal
25 penetration, including internal pelvic floor treatments but
26 excluding medical services that primarily relate to a patient's
27 urological, gastrointestinal, reproductive, gynecological, or
28 sexual health, that are performed to measure a patient's
29 temperature, or that are performed for the purpose of rectally

1 administering a drug or medicine. In creating the document
2 described in this subsection, the board shall consult with
3 appropriate professional associations and other interested
4 stakeholders.

5 (2) The board shall make the document required under
6 subsection (1) publicly available by 1 year after the effective
7 date of the amendatory act that added this section.

8 Sec. 17529. (1) The board shall create a document that
9 provides guidance to licensees on generally accepted standards of
10 medical practice for medical services involving vaginal or anal
11 penetration, including internal pelvic floor treatments but
12 excluding medical services that primarily relate to a patient's
13 urological, gastrointestinal, reproductive, gynecological, or
14 sexual health, that are performed to measure a patient's
15 temperature, or that are performed for the purpose of rectally
16 administering a drug or medicine. In creating the document
17 described in this subsection, the board shall consult with
18 appropriate professional associations and other interested
19 stakeholders.

20 (2) The board shall make the document required under
21 subsection (1) publicly available by 1 year after the effective
22 date of the amendatory act that added this section.

23 Sec. 17829. (1) The board shall create a document that
24 provides guidance to licensees on generally accepted standards of
25 practice for services involving vaginal or anal penetration,
26 including internal pelvic floor treatments. In creating the
27 document described in this subsection, the board shall consult with
28 appropriate professional associations and other interested
29 stakeholders.

1 (2) The board shall make the document required under
2 subsection (1) publicly available by 1 year after the effective
3 date of the amendatory act that added this section.

4 Sec. 17909. (1) The board shall create a document that
5 provides guidance to licensees on generally accepted standards of
6 practice for services involving vaginal or anal penetration,
7 including internal pelvic floor treatments. In creating the
8 document described in this subsection, the board shall consult with
9 appropriate professional associations and other interested
10 stakeholders.

11 (2) The board shall make the document required under
12 subsection (1) publicly available by 1 year after the effective
13 date of the amendatory act that added this section.

14 Sec. 20175. (1) A health facility or agency shall keep and
15 maintain a record for each patient, including a full and complete
16 record of tests and examinations performed, observations made,
17 treatments provided, and in the case of a hospital, the purpose of
18 hospitalization. If a medical service provided to a patient on or
19 after the effective date of the amendatory act that added this
20 sentence involves the vaginal or anal penetration of the patient, a
21 health facility or agency shall ensure that the patient's medical
22 record expressly states that vaginal or anal penetration was
23 performed unless the medical service meets any of the circumstances
24 described in subsection (2) (b) (i) (A), (B), (C), or (D).

25 (2) Unless a longer retention period is otherwise required
26 under federal or state laws or regulations or by generally accepted
27 standards of medical practice, a health facility or agency shall
28 keep and retain each record ~~for~~ required under subsection (1) as
29 follows:

1 (a) Except as otherwise provided in subdivision (b), for a
2 minimum of 7 years from the date of service to which the record
3 pertains.

4 (b) For a minimum of 15 years from the date of service to
5 which the record pertains if the service is performed on or after
6 the effective date of the amendatory act that added this
7 subdivision and 1 of the following applies:

8 (i) The record includes a medical service involving the vaginal
9 or anal penetration of a patient. This subparagraph does not apply
10 to a record for any of the following:

11 (A) A medical service that primarily relates to the patient's
12 urological, gastrointestinal, reproductive, gynecological, or
13 sexual health.

14 (B) A medical service that is necessary and associated with or
15 incident to a medical emergency. As used in this sub-subparagraph,
16 "medical emergency" means a circumstance that, in the good-faith
17 medical judgment of a health professional who is licensed under
18 article 15, creates an immediate threat of serious risk to the life
19 or physical health of the patient.

20 (C) A medical service performed for the purpose of rectally
21 administering a drug or medicine.

22 (D) A medical service performed to measure a patient's
23 temperature.

24 (ii) The patient has filed a complaint with the health facility
25 or agency alleging sexual misconduct by an individual who is
26 employed by, under contract to, or granted privileges by the health
27 facility or agency. As used in this subparagraph, "sexual
28 misconduct" means the conduct described in section 90, 136, 145a,
29 145b, 145c, 520b, 520c, 520d, 520e, or 520g of the Michigan penal

1 code, 1931 PA 328, MCL 750.90, 750.136, 750.145a, 750.145b,
 2 750.145c, 750.520b, 750.520c, 750.520d, 750.520e, or 750.520g,
 3 regardless of whether the conduct resulted in a criminal
 4 conviction.

5 (3) A health facility or agency shall maintain the records
 6 **required under subsection (1)** in such a manner as to protect their
 7 integrity, to ensure their confidentiality and proper use, and to
 8 ensure their accessibility and availability to each patient or ~~his~~
 9 ~~or her~~ **the patient's** authorized representative as required by law.

10 (4) ~~A~~ **Except as otherwise provided in subsection (6)**, a health
 11 facility or agency may destroy a record **required under subsection**
 12 **(1)** that is less than 7 years old only if both of the following are
 13 satisfied:

14 (a) The health facility or agency sends a written notice to
 15 the patient at the last known address of that patient informing the
 16 patient that the record is about to be destroyed, offering the
 17 patient the opportunity to request a copy of that record, and
 18 requesting the patient's written authorization to destroy the
 19 record.

20 (b) The health facility or agency receives written
 21 authorization from the patient or ~~his or her~~ **the patient's**
 22 authorized representative agreeing to the destruction of the
 23 record.

24 (5) Except as otherwise provided under federal or state laws
 25 and regulations, records required to be maintained under ~~this~~
 26 **subsection (1)**, **other than a record described in subsection (2) (b)**,
 27 may be destroyed or otherwise disposed of after being maintained
 28 for 7 years, **and records described in subsection (2) (b) may be**
 29 **destroyed or otherwise disposed of after being maintained for 15**

1 **years.** If records maintained in accordance with this section are
2 subsequently destroyed or otherwise disposed of, those records
3 ~~shall~~**must** be shredded, incinerated, electronically deleted, or
4 otherwise disposed of in a manner that ensures continued
5 confidentiality of the patient's health care information and any
6 other personal information relating to the patient. If records are
7 **not** destroyed or otherwise disposed of as provided under this
8 subsection **or subsection (4)**, the department may take action,
9 including, but not limited to, contracting for or making other
10 arrangements to ensure that those records and any other
11 confidential identifying information related to the patient are
12 properly destroyed or disposed of to protect the confidentiality of
13 patient's health care information and any other personal
14 information relating to the patient. Before the department takes
15 action in accordance with this subsection, the department, if able
16 to identify the health facility or agency responsible for the
17 improper destruction or disposal of the medical records at issue,
18 shall send a written notice to that health facility or agency at
19 the last known address on file with the department and provide the
20 health facility or agency with an opportunity to properly destroy
21 or dispose of those medical records as required under this
22 subsection **or subsection (4)**, unless a delay in the proper
23 destruction or disposal may compromise the patient's
24 confidentiality. The department may assess the health facility or
25 agency with the costs incurred by the department to enforce this
26 subsection. In addition to the sanctions set forth in section
27 20165, a hospital that fails to comply with this subsection **or**
28 **subsection (4)** is subject to an administrative fine of \$10,000.00.

29 **(6) A health facility or agency shall only destroy a record**

1 **described in subsection (2) (b) in accordance with subsection (5).**

2 (7) ~~(2)~~—A hospital shall take precautions to ~~assure~~**ensure**
3 that the records required ~~by~~**under** subsection (1) are not
4 wrongfully altered or destroyed. A hospital that fails to comply
5 with this subsection is subject to an administrative fine of
6 \$10,000.00.

7 (8) ~~(3)~~—Unless otherwise provided by law, the licensing and
8 certification records required by this article are public records.

9 (9) ~~(4)~~—Departmental officers and employees shall respect the
10 confidentiality of patient clinical records and shall not divulge
11 or disclose the contents of records in a manner that identifies an
12 individual except pursuant to court order or as otherwise
13 authorized by law.

14 (10) ~~(5)~~—A health facility or agency that employs, contracts
15 with, or grants privileges to a health professional licensed or
16 registered under article 15 shall report the following to the
17 department not more than 30 days after it occurs:

18 (a) Disciplinary action taken by the health facility or agency
19 against a health professional licensed or registered under article
20 15 based on the licensee's or registrant's professional competence,
21 disciplinary action that results in a change of employment status,
22 or disciplinary action based on conduct that adversely affects the
23 licensee's or registrant's clinical privileges for a period of more
24 than 15 days. As used in this subdivision, "adversely affects"
25 means the reduction, restriction, suspension, revocation, denial,
26 or failure to renew the clinical privileges of a licensee or
27 registrant by a health facility or agency.

28 (b) Restriction or acceptance of the surrender of the clinical
29 privileges of a licensee or registrant under either of the

1 following circumstances:

2 (i) The licensee or registrant is under investigation by the
3 health facility or agency.

4 (ii) There is an agreement in which the health facility or
5 agency agrees not to conduct an investigation into the licensee's
6 or registrant's alleged professional incompetence or improper
7 professional conduct.

8 (c) A case in which a health professional resigns or
9 terminates a contract or whose contract is not renewed instead of
10 the health facility **or agency** taking disciplinary action against
11 the health professional.

12 **(11)** ~~(6)~~—Upon request by another health facility or agency
13 seeking a reference for purposes of changing or granting staff
14 privileges, credentials, or employment, a health facility or agency
15 that employs, contracts with, or grants privileges to health
16 professionals licensed or registered under article 15 shall notify
17 the requesting health facility or agency of any disciplinary or
18 other action reportable under subsection ~~(5)~~ **(10)** that it has taken
19 against a health professional licensed or registered under article
20 15 and employed by, under contract to, or granted privileges by the
21 health facility or agency.

22 **(12)** ~~(7)~~—For the purpose of reporting disciplinary actions
23 under this section, a health facility or agency shall include only
24 the following in the information provided:

25 (a) The name of the licensee or registrant against whom
26 disciplinary action has been taken.

27 (b) A description of the disciplinary action taken.

28 (c) The specific grounds for the disciplinary action taken.

29 (d) The date of the incident that is the basis for the

1 disciplinary action.

2 **(13)** ~~(8)~~—The records, data, and knowledge collected for or by
 3 individuals or committees assigned a professional review function
 4 in a health facility or agency, or an institution of higher
 5 education in this state that has colleges of osteopathic and human
 6 medicine, are confidential, ~~shall~~**must** be used only for the
 7 purposes provided in this article, are not public records, and are
 8 not subject to court subpoena.

9 Sec. 20175a. (1) If a health facility or agency is unable to
 10 comply with section 20175, the health facility or agency shall
 11 employ or contract, arrange, or enter into an agreement with
 12 another health facility or agency or a medical records company to
 13 protect, maintain, and provide access to those records required
 14 under section 20175(1).

15 (2) If a health facility or agency closes or otherwise ceases
 16 operation, the health facility or agency shall not abandon the
 17 records required to be maintained under section 20175(1) and shall
 18 send a written notice to the department that specifies who will
 19 have custody of the medical records and how a patient may request
 20 access to or copies of ~~his or her~~**the patient's** medical records and
 21 shall do either of the following:

22 (a) Transfer the records required under section 20175(1) to
 23 any of the following:

24 (i) A successor health facility or agency.

25 (ii) If designated by the patient or ~~his or her~~**the patient's**
 26 authorized representative, to the patient or a specific health
 27 facility or agency or a health care provider licensed or registered
 28 under article 15.

29 (iii) A health facility or agency or a medical records company

1 with which the health facility or agency had contracted or entered
 2 into an agreement to protect, maintain, and provide access to those
 3 records required under section 20175(1).

4 (b) ~~In~~ **Except as otherwise provided in section 20175(6) and in**
 5 accordance with section 20175(1) **to (5)**, as long as the health
 6 facility or agency sends a written notice to the last known address
 7 of each patient for whom ~~he or she~~ **the health facility or agency**
 8 has provided medical services and receives written authorization
 9 from the patient or ~~his or her~~ **the patient's** authorized
 10 representative, destroy the records required under section
 11 20175(1). The notice ~~shall~~ **must** provide the patient with 30 days to
 12 request a copy of ~~his or her record~~ **the patient's records** or to
 13 designate where ~~he or she~~ **the patient** would like ~~his or her~~ **the**
 14 **patient's** medical records transferred and ~~shall~~ **must** request from
 15 the patient within 30 days written authorization for the
 16 destruction of ~~his or her~~ **the patient's** medical records. ~~If~~ **Except**
 17 **as otherwise provided in section 20175(6), if** the patient fails to
 18 request a copy or transfer of ~~his or her~~ **the patient's** medical
 19 records or to provide the health facility or agency with written
 20 authorization for the destruction, then the health facility or
 21 agency shall not destroy those records that are less than 7 years
 22 old but may destroy, in accordance with section 20175(1) **to (5)**,
 23 those that are 7 years old or older.

24 (3) Nothing in this section shall be conducted to create or
 25 change the ownership rights to any medical records.

26 (4) A person that fails to comply with this section is subject
 27 to an administrative fine of not more than \$10,000.00 if the
 28 failure was the result of gross negligence or willful and wanton
 29 misconduct.

1 (5) As used in this section:

2 (a) "Medical record" or "record" means information, oral or
3 recorded in any form or medium, that pertains to a patient's health
4 care, medical history, diagnosis, prognosis, or medical condition
5 and that is maintained by a licensee in the process of providing
6 medical services.

7 (b) "Medical records company" means a person who contracts for
8 or agrees to protect, maintain, and provide access to medical
9 records for a health facility or agency in accordance with section
10 20175.

11 (c) "Patient" means an individual who receives or has received
12 health care from a health care provider or health facility or
13 agency. Patient includes a guardian, if appointed, and a parent,
14 guardian, or person acting in loco parentis, if the individual is a
15 minor, unless the minor lawfully obtained health care without the
16 consent or notification of a parent, guardian, or other person
17 acting in loco parentis, in which case the minor has the exclusive
18 right to exercise the rights of a patient under this section with
19 respect to ~~his or her~~ **the minor's** medical records relating to that
20 care.

21 **Sec. 20175b. (1) Except as otherwise provided in subsections**
22 **(2) and (3), a person that violates section 20175(1) regarding the**
23 **documentation of a medical service involving vaginal or anal**
24 **penetration in a patient's medical record is subject to an**
25 **administrative fine or guilty of a crime as follows:**

26 (a) For a first violation, an administrative fine of not more
27 than \$2,500.00.

28 (b) For a second violation, an administrative fine of not more
29 than \$5,000.00.

1 (c) For a third or subsequent violation, a misdemeanor
2 punishable by imprisonment for not more than 180 days or a fine of
3 not more than \$7,500.00, or both.

4 (2) A person that violates section 20175(1) regarding the
5 documentation of a medical service involving vaginal or anal
6 penetration in a patient's medical record is guilty of a
7 misdemeanor punishable by imprisonment for not more than 180 days
8 or a fine of \$10,000.00, or both, if the violation was the result
9 of gross negligence.

10 (3) A person that intentionally violates section 20175(1)
11 regarding the documentation of a medical service involving vaginal
12 or anal penetration in a patient's medical record is guilty of a
13 felony punishable by imprisonment for not more than 2 years or a
14 fine of not more than \$10,000.00, or both.

15 (4) This section does not limit any other sanction the
16 department is authorized to impose under section 20165.

17 Sec. 20199. (1) Except as **otherwise** provided in subsection (2)
18 ~~or section 20142, or this article~~, a person ~~who~~**that** violates this
19 article or a rule promulgated or an order issued under this article
20 is guilty of a misdemeanor, punishable by **a** fine of not more than
21 \$1,000.00 for each day the violation continues or, in case of a
22 violation of sections 20551 to 20554, a fine of not more than
23 \$1,000.00 for each occurrence.

24 (2) A person ~~who~~**that** violates sections 20181 to 20184 is
25 guilty of a misdemeanor ~~—~~punishable by imprisonment for not more
26 than 6 months ~~—~~or a fine of not more than \$2,000.00, or both.

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