

**SUBSTITUTE FOR  
HOUSE BILL NO. 4863**

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending sections 6233, 6235, 6236, 6237, 6238, 6241, 6243,  
6251, 7408a, 16106a, and 16221 (MCL 333.6233, 333.6235, 333.6236,  
333.6237, 333.6238, 333.6241, 333.6243, 333.6251, 333.7408a,  
333.16106a, and 333.16221), section 7408a as amended by 1999 PA  
144, section 16106a as added by 1993 PA 80, and section 16221 as  
amended by 2011 PA 222, and by adding sections 6230, 6234, and  
6249.

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

1       **SEC. 6230. AS USED IN THIS PART:**

2       **(A) "DEPARTMENT" MEANS THE DEPARTMENT OF LICENSING AND**  
3       **REGULATORY AFFAIRS.**

4       **(B) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT OR HIS OR**

1 HER DESIGNEE.

2 (C) "SUBSTANCE USE DISORDER SERVICES" MEANS SUBSTANCE USE  
3 DISORDER PREVENTION SERVICES OR SUBSTANCE USE DISORDER TREATMENT  
4 AND REHABILITATION SERVICES, OR BOTH, AS THOSE TERMS ARE DEFINED IN  
5 SECTION 100D OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1100D.

6 Sec. 6233. (1) A person not otherwise licensed to provide  
7 psychological, medical, or social services shall not establish,  
8 conduct, or maintain a substance ~~abuse service~~ **USE DISORDER**  
9 **SERVICES PROGRAM** unless it is licensed under this ~~article~~ **PART**.

10 (2) The ~~administrator~~ **DEPARTMENT** shall establish a licensing  
11 unit ~~in the office~~ to administer the licensing functions of this  
12 ~~article~~ **PART**.

13 (3) This section ~~shall~~ **DOES** not apply to **A** private, nonprofit  
14 ~~organizations~~ **ORGANIZATION** exempt under section 501(c)(3) of the  
15 internal revenue code, ~~which have~~ **26 USC 501, THAT HAS** been in  
16 existence ~~for more than 13 years prior to the enactment of this~~  
17 ~~code~~ **SINCE BEFORE SEPTEMBER 30, 1965** and whose major purpose is to  
18 provide residential services for the redirection and improvement of  
19 drug abusers and other character disordered individuals.

20 **SEC. 6234. THE DEPARTMENT MAY PROMULGATE RULES UNDER THE**  
21 **ADMINISTRATIVE PROCEDURES ACT OF 1969 FOR THE ADMINISTRATION OF**  
22 **THIS PART AND THE LICENSING OF SUBSTANCE USE DISORDER SERVICES**  
23 **PROGRAMS UNDER THIS PART. RULES PROMULGATED UNDER FORMER SECTION**  
24 **6231 RELATING TO THE LICENSING OF SUBSTANCE USE DISORDER SERVICES**  
25 **PROGRAMS REMAIN EFFECTIVE AND APPLICABLE ON AND AFTER THE EFFECTIVE**  
26 **DATE OF THIS SECTION UNTIL RULES ARE PROMULGATED BY THE DEPARTMENT**  
27 **UNDER THIS SECTION.**

1           Sec. 6235. (1) An application for a license shall be in a form  
2 prescribed by the ~~office~~**DEPARTMENT** and shall authorize the  
3 ~~administrator or his or her representative~~**DIRECTOR** to obtain from  
4 any source information as to the ability of the applicant to comply  
5 with this ~~article~~**PART** and rules promulgated under this  
6 ~~article~~**PART**.

7           (2) An applicant for an initial license shall include evidence  
8 of notice to churches, schools, and incorporated nonprofit civic  
9 organizations in the applicant's service delivery area of its  
10 intent to provide substance ~~abuse treatment and rehabilitation~~  
11 ~~services or prevention~~**USE DISORDER** services.

12           Sec. 6236. The ~~local advisory council on substance abuse~~  
13 **DEPARTMENT** shall provide an opportunity for individuals in the  
14 applicant's service delivery area to comment before the issuance of  
15 a license to the applicant. The ~~comments shall be included in the~~  
16 ~~coordinating agency's comments to the office. However, the~~  
17 ~~administrator~~**DEPARTMENT** shall make the decision to issue or deny a  
18 license based on the applicant's ability to comply with the  
19 requirements of this ~~article~~**PART** and rules promulgated under this  
20 ~~article~~**PART**. If the administrative decision ~~on licensing is~~  
21 ~~contrary to the local coordinating agency's recommendations~~**THE**  
22 **DENIAL OF A LICENSE**, the ~~administrator~~**DEPARTMENT** shall describe  
23 ~~these~~**THE** reasons **FOR THE DENIAL** in writing to the ~~local~~  
24 ~~coordinating agency~~**APPLICANT** at the time the decision is rendered.

25           Sec. 6237. The ~~office~~**DEPARTMENT** shall issue a license upon  
26 determining that the applicant has complied with this ~~article~~**PART**  
27 and rules promulgated under this ~~article~~**PART**. A licensee shall

1 prominently display the license while it is in effect.

2       Sec. 6238. A standard license **ISSUED UNDER THIS PART** is  
3 effective for 1 year after the date of issuance. ~~A-**THE DEPARTMENT**~~  
4 **MAY ISSUE A** provisional license ~~may be issued~~ to an applicant  
5 temporarily unable to comply with **THIS PART OR** the rules  
6 promulgated under this ~~article and~~ **PART**. **THE DEPARTMENT** may be  
7 ~~renewed or extended~~ **RENEW OR EXTEND A PROVISIONAL LICENSE ISSUED**  
8 **UNDER THIS SECTION** for not more than 1 year. ~~A-**THE DEPARTMENT MAY**~~  
9 **ISSUE A** temporary, nonrenewable permit ~~may be issued~~ for not more  
10 than 90 days if additional time is needed **FOR THE DEPARTMENT** to  
11 properly investigate or **FOR THE APPLICANT** to undertake remedial  
12 action.

13       Sec. 6241. The ~~administrator, his or her agent,~~ **DIRECTOR** or  
14 the personnel of another department or agency acting at the request  
15 of the ~~administrator~~ **DIRECTOR** may enter the premises of an  
16 applicant for a license or a licensee at any reasonable time to  
17 make an inspection to determine whether the applicant or licensee  
18 is complying with this ~~article~~ **PART** and rules promulgated under  
19 this ~~article~~ **PART**. A local health department may visit a facility  
20 at the request of the ~~administrator~~ **DIRECTOR** to advise as to  
21 matters affecting health and the sanitation of the buildings used  
22 or other matters designated by the ~~administrator~~ **DIRECTOR**. The  
23 inspections shall be conducted in accordance with standards  
24 established in rules.

25       Sec. 6243. ~~With the assistance of the~~ **THE** department, ~~the~~  
26 ~~administrator~~ may deny, suspend, revoke, or refuse to renew a  
27 license of an applicant or licensee who is in violation of this

1 ~~article~~**PART** or rules promulgated under this ~~article~~**PART** after  
2 opportunity for a hearing. A hearing and an appeal in a contested  
3 case shall be conducted by the director ~~or the director's~~  
4 ~~authorized representative~~ pursuant to the administrative procedures  
5 act of 1969.

6 **SEC. 6249. (1) AN INDIVIDUAL OR AN AGENT, REPRESENTATIVE, OR**  
7 **OFFICER OF A PERSON SUBJECT TO THIS PART, WHICH INDIVIDUAL, AGENT,**  
8 **REPRESENTATIVE, OR OFFICER VIOLATES THIS PART, IS GUILTY OF A**  
9 **MISDEMEANOR.**

10 **(2) A CONVICTION FOR A VIOLATION OF THIS PART IS A SUFFICIENT**  
11 **GROUND FOR REVOCATION OF THE LICENSE OF THE PERSON SUBJECT TO THIS**  
12 **PART.**

13 **Sec. 6251.** Notwithstanding the existence of any other remedy,  
14 the ~~office~~**DEPARTMENT** may maintain an action in the name of this  
15 state for an injunction or other process against a person to  
16 restrain or prevent the establishment, conduct, management, or  
17 operation of a substance ~~abuse service~~**USE DISORDER SERVICES**  
18 program without a license or where operation of the licensee's  
19 ~~service~~**PROGRAM** is likely to result in serious harm to recipients  
20 of the ~~service~~**SUBSTANCE USE DISORDER SERVICES.**

21 **Sec. 7408a. (1)** As part of the sentence or juvenile  
22 disposition for an attempt to violate, a conspiracy to violate, or  
23 a violation of this part ~~or section 17766a~~ or of a local ordinance  
24 that prohibits conduct prohibited under this part, ~~or section~~  
25 ~~17766a~~, the court shall consider all prior convictions currently  
26 entered upon the criminal history record and Michigan driving  
27 record of the person, except those convictions which, upon motion

1 of the defendant, are determined by the court to be  
2 constitutionally invalid, and, subject to subsection (11), shall  
3 impose the following licensing sanctions in addition to any other  
4 penalty or sanction imposed for the violation:

5 (a) If the court finds that the person does not have a prior  
6 conviction within 7 years of the violation, the court shall order  
7 the secretary of state to suspend the operator's or chauffeur's  
8 license of the person for 6 months. If the court finds compelling  
9 circumstances under subsection (8) sufficient to warrant the  
10 issuance of a restricted license, the court may order the secretary  
11 of state to issue to the person a restricted license during all or  
12 a specified portion of the period of suspension, except that a  
13 restricted license shall not be issued during the first 30 days of  
14 the period of suspension.

15 (b) If the court finds that the person has 1 or more prior  
16 convictions within 7 years of the violation, the court shall order  
17 the secretary of state to suspend the operator's or chauffeur's  
18 license of the person for 1 year. If the court finds compelling  
19 circumstances under subsection (8) sufficient to warrant the  
20 issuance of a restricted license, the court may order the secretary  
21 of state to issue to the person a restricted license during all or  
22 any portion of the period of suspension, except that a restricted  
23 license shall not be issued during the first 60 days of the period  
24 of suspension.

25 (2) The person whose operator's or chauffeur's license is  
26 ordered suspended under this section shall immediately surrender  
27 his or her operator's or chauffeur's license to the court. The

## House Bill No. 4863 as amended December 12, 2012

1 court shall immediately destroy the license and forward an abstract  
 2 of conviction with court-ordered license sanctions to the secretary  
 3 of state. Upon receipt of, and pursuant to, the abstract of  
 4 conviction with court-ordered license sanctions, the secretary of  
 5 state shall suspend the person's license and, if ordered by the  
 6 court and if the person is otherwise eligible for a license, issue  
 7 to the person a restricted license stating the limited driving  
 8 privileges indicated on the abstract. If the judgment is appealed  
 9 to circuit court, the court may, ex parte, order the secretary of  
 10 state to stay the suspension or license restriction issued under  
 11 this section pending the outcome of the appeal.

12 (3) Except as otherwise provided in subsection (5), before  
 13 imposing sentence or entering a juvenile disposition, other than  
 14 court-ordered license sanctions under this section, for an attempt  
 15 to violate, a conspiracy to violate, or a violation of this part ~~or~~  
 16 ~~section 17766a~~ or of a local ordinance that prohibits conduct  
 17 prohibited under this part, ~~or section 17766a~~, the court may order  
 18 the person to undergo screening and assessment by a person or  
 19 agency as designated by ~~the office of substance abuse services~~ **A**  
 20 **<<DEPARTMENT-DESIGNATED COMMUNITY MENTAL HEALTH ENTITY>> OR A COMMUNITY**  
 21 **MENTAL HEALTH SERVICES**  
 22 **PROGRAM UNDER THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1001 TO**  
 23 **330.2106**, to determine whether the person is likely to benefit from  
 24 rehabilitative services, including alcohol or drug education and  
 25 alcohol or drug treatment programs. The person shall pay for the  
 26 costs of the screening and assessment services.

27 (4) Except as otherwise provided in subsection (5), as part of  
 the sentence or juvenile disposition for an attempt to violate, a

1 conspiracy to violate, or a violation of this part ~~or section~~  
2 ~~17766a~~ or of a local ordinance that prohibits conduct prohibited  
3 under this part, ~~or section 17766a~~, the court may order the person  
4 to do 1 or both of the following:

5 (a) Perform service to the community for not more than 90  
6 days. A person ordered to perform service to the community under  
7 this subdivision shall not receive compensation, and shall  
8 reimburse the state or appropriate local unit of government for the  
9 cost of supervision incurred by the state or local unit of  
10 government as a result of the person's activities in that service.

11 (b) Participate in and successfully complete 1 or more  
12 appropriate rehabilitative programs. The person shall pay for the  
13 costs of the rehabilitative services.

14 (5) Subsections (3) and (4) do not apply to a person who is  
15 not eligible for probation under chapter XI of the code of criminal  
16 procedure, 1927 PA 175, MCL 777.1 to 777.14a.

17 (6) A restricted license issued in compliance with an order  
18 under this section shall permit the person to whom it is issued to  
19 drive under the following circumstances:

20 (a) In the course of the person's employment or occupation.

21 (b) To and from any combination of the following:

22 (i) The person's residence.

23 (ii) The person's work location.

24 (iii) An alcohol or drug education or treatment program as  
25 ordered by the court.

26 (iv) The court probation department.

27 (v) A court-ordered community service program.



1           (vi) An educational institution at which the person is enrolled  
2 as a student.

3           (vii) A place of regularly occurring medical treatment for a  
4 serious condition for the person or a member of the person's  
5 household or immediate family.

6           (7) The court shall not order the secretary of state under  
7 this section to issue a restricted license that would permit a  
8 person to operate a commercial motor vehicle that hauls hazardous  
9 material.

10           (8) The court shall not order the secretary of state under  
11 this section to issue a restricted license unless the person states  
12 under oath, and the court finds by testimony taken in open court or  
13 by statements contained in a sworn affidavit on a form prescribed  
14 by the state court administrator, that both of the following apply:

15           (a) The person needs vehicular transportation to and from his  
16 or her work location, place of alcohol or drug education treatment,  
17 court probation department, court-ordered community service  
18 program, or educational institution, or in the course of the  
19 person's employment or occupation.

20           (b) The person is unable to take public transportation and  
21 does not have any family members or other individual able to  
22 provide transportation to a destination or for a purpose described  
23 in subdivision (a).

24           (9) Regardless of a court order issued under this section, the  
25 secretary of state shall not issue a restricted license to a person  
26 whose license is suspended under this section unless a restricted  
27 license is authorized under this section and the person is

1 otherwise eligible for a license.

2 (10) While driving, the person shall carry proof of his or her  
3 destination and the hours of any employment, class, or other reason  
4 for traveling and shall display that proof upon a peace officer's  
5 request.

6 (11) A court shall not order the suspension of a person's  
7 license if the person is sentenced to life imprisonment or to a  
8 minimum term of imprisonment that exceeds 1 year for an attempt to  
9 violate, a conspiracy to violate, or a violation of **THIS** part. 74  
10 ~~or section 17766a.~~

11 (12) The court shall do both of the following:

12 (a) Transmit a record of each order issued under this section  
13 to the secretary of state.

14 (b) Forward to the department of state police, on a form or  
15 forms prescribed by the state court administrator, a record that  
16 specifies the penalties imposed by the court for an offense  
17 described in subsection (1), including a licensing sanction ordered  
18 under this section and a term of imprisonment imposed for the  
19 offense.

20 (13) Except as otherwise provided by law, a record described  
21 in subsection (12) is a public record, and the department of state  
22 police shall retain the information contained in that record for  
23 not less than 7 years.

24 (14) As used in this section:

25 (a) "Commercial motor vehicle" means that term as defined in  
26 section 7a of the Michigan vehicle code, 1949 PA 300, MCL 257.7a.

27 (b) "Conviction" means a final conviction, a plea of guilty or

1 nolo contendere if accepted by the court, a finding of guilt, a  
2 probate court disposition, or a juvenile adjudication, for a  
3 criminal law violation, regardless of whether the penalty is  
4 rebated or suspended.

5 (c) "Hazardous material" means that term as defined in section  
6 19b of **THE MICHIGAN VEHICLE CODE**, 1949 PA 300, MCL 257.19b.

7 (d) "Juvenile disposition" means either of the following:

8 (i) A finding of juvenile delinquency under ~~chapter 403 of~~  
9 ~~title 18 of the United States Code, 18 U.S.C. 5031 to 5040 and 5042~~  
10 **18 USC 5031 TO 5042.**

11 (ii) The entry of a judgment or order of disposition by a court  
12 of another state that states or is based upon a finding that a  
13 juvenile violated a law of another state that would have been a  
14 criminal offense if committed by an adult in that state.

15 (e) "Law of another state" means a law or ordinance enacted by  
16 another state or by a local unit of government in another state.

17 ~~—— (f) "Office of substance abuse services" means the agency~~  
18 ~~created by section 6201.~~

19 (F) ~~(g)~~ "Prior conviction" means either of the following:

20 (i) A conviction for an attempt to violate, a conspiracy to  
21 violate, or a violation of **THIS** part 74 ~~or FORMER~~ section 17766a, a  
22 local ordinance that prohibits conduct prohibited under **THIS** part  
23 ~~74 or FORMER~~ section 17766a, or a law of another state that  
24 prohibits conduct prohibited under **THIS** part 74 ~~or FORMER~~ section  
25 17766a.

26 (ii) A conviction for an attempt to violate, a conspiracy to  
27 violate, or a violation of the controlled substances act, ~~title II~~

1 ~~of the comprehensive drug abuse prevention and control act of 1970,~~  
2 ~~Public Law 91-513, 84 Stat. 1242-21 USC 801 TO 971.~~

3 (G) ~~(h)~~-"Probate court disposition" means the entry of a  
4 probate court order of disposition for a child found to be within  
5 the provisions of chapter XIIIA of the probate code of 1939, 1939 PA  
6 288, MCL 712A.1 to ~~712A.28~~-**712A.32**.

7 (H) ~~(i)~~-"Work location" means, as applicable, either the  
8 specific place or places of employment, or the territory or  
9 territories regularly visited by the person in pursuance of the  
10 person's occupation, or both.

11 Sec. 16106a. "Impaired" or "impairment" means the inability or  
12 immediately impending inability of a health professional to  
13 practice his or her health profession in a manner that conforms to  
14 the minimum standards of acceptable and prevailing practice for  
15 that health profession due to the health professional's substance  
16 abuse, chemical dependency, or mental illness or the health  
17 professional's use of drugs or alcohol that does not constitute  
18 substance abuse or chemical dependency. As used in this section:

19 (a) "Chemical dependency" means a group of cognitive,  
20 behavioral, and physiological symptoms that indicate that an  
21 individual has a substantial lack of or no control over the  
22 individual's use of 1 or more psychoactive substances.

23 (b) "Mental illness" means that term as defined in ~~section~~  
24 ~~400a of the mental health code, Act No. 258 of the Public Acts of~~  
25 ~~1974, being section 330.1400a of the Michigan Compiled Laws~~ **SECTION**  
26 **400 OF THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1400.**

27 (c) "Substance abuse" means ~~that term~~ **SUBSTANCE USE DISORDER**

House Bill No. 4863 as amended December 12, 2012

1 as defined in section ~~6107-100D~~ **OF THE MENTAL HEALTH CODE, 1974 PA**  
2 **258, MCL <<330.1100D>>.**

3 <<Sec. 16221. The department may investigate activities related to  
4 the practice of a health profession by a licensee, a registrant, or an  
5 applicant for licensure or registration. The department may hold  
6 hearings, administer oaths, and order **THE TAKING OF** relevant testimony  
7 ~~to be taken~~ and shall report its findings to the appropriate  
8 disciplinary subcommittee. The disciplinary subcommittee shall proceed  
9 under section 16226 if it finds that 1 or more of the following grounds  
10 exist:

11 (a) A violation of general duty, consisting of negligence or  
12 failure to exercise due care, including negligent delegation to or  
13 supervision of employees or other individuals, whether or not injury  
14 results, or any conduct, practice, or condition that impairs, or may  
15 impair, the ability to safely and skillfully practice the health  
16 profession.

17 (b) Personal disqualifications, consisting of 1 or more of the  
18 following:

19 (i) Incompetence.

20 (ii) Subject to sections 16165 to 16170a, substance abuse ~~USE~~  
21 **DISORDER** as defined in section ~~6107-100D~~ **OF THE MENTAL HEALTH CODE,**  
22 **1974 PA 258, MCL 330.1100D.**

23 (iii) Mental or physical inability reasonably related to and  
24 adversely affecting the licensee's ability to practice in a safe and  
25 competent manner.

26 (iv) Declaration of mental incompetence by a court of competent  
27 jurisdiction.

House Bill No. 4863 as amended December 12, 2012

1 (v) Conviction of a misdemeanor punishable by imprisonment for a  
2 maximum term of 2 years; a misdemeanor involving the illegal delivery,  
3 possession, or use of a controlled substance; or a felony. A certified  
4 copy of the court record is conclusive evidence of the conviction.

5 (vi) Lack of good moral character.

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

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

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

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

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

27 (xii) Conviction of a violation of section 430 of the Michigan

House Bill No. 4863 as amended December 12, 2012

1 penal code, 1931 PA 328, MCL 750.430. A certified copy of the court  
2 record is conclusive evidence of the conviction.

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

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

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

10 (ii) Permitting ~~the~~ A license or registration to be used by an  
11 unauthorized person.

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

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

18 (d) Unethical business practices, consisting of 1 or more of the  
19 following:

20 (i) False or misleading advertising.

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

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

26 (e) Unprofessional conduct, consisting of 1 or more of the  
27 following:

House Bill No. 4863 as amended December 12, 2012

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

4           (ii) Betrayal of a professional confidence.

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

7           (iv) Either of the following:

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

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



House Bill No. 4863 as amended December 12, 2012

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

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

17 (f) Beginning June 3, 2003, the department of consumer and industry  
18 services shall prepare the first of 3 annual reports on the effect of  
19 2002 PA 402 on access to care for the uninsured and Medicaid patients.  
20 The department shall report on the number of referrals by licensees of  
21 uninsured and Medicaid patients to purchase or secure a drug, device,  
22 treatment, procedure, or service from another person, place, facility,  
23 or business in which the licensee has a financial interest.

24 (g) Failure to report a change of name or mailing address  
25 within 30 days after the change occurs.

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

House Bill No. 4863 as amended December 12, 2012

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

6 (j) Failure to pay an installment of an assessment levied  
7 ~~pursuant to~~ **UNDER** the insurance code of 1956, 1956 PA 218,  
8 MCL 500.100 to 500.8302, within 60 days after notice by the appropriate  
9 board.

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

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

13 (m) A violation of section 17015, ~~or~~ **17015A, 17017, 17515, OR**  
14 **17517.**

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

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

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

18 (q) A violation of section 16274.

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

20 (s) A violation of the medical records access act, 2004 PA 47, MCL  
21 333.26261 to 333.26271.

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

23

24

25

>>

26 Enacting section 1. This amendatory act takes effect January  
27 1, 2013.

1           Enacting section 2. This amendatory act does not take effect  
2 unless House Bill No. 4862 of the 96th Legislature is enacted into  
3 law.