

**SUBSTITUTE FOR
SENATE BILL NO. 660**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7212, 7214, 7301a, 7303, 16169, 16170a,
16174, 16192, 16216, 16221, 16222, 16226, 16231, 16231a, 16232,
16233, 16237, 16241, 16245, 16315, 17754, 17768, 17775, and
20176a (MCL 333.7212, 333.7214, 333.7301a, 333.7303, 333.16169,
333.16170a, 333.16174, 333.16192, 333.16216, 333.16221,
333.16222, 333.16226, 333.16231, 333.16231a, 333.16232,
333.16233, 333.16237, 333.16241, 333.16245, 333.16315, 333.17754,
333.17768, 333.17775, and 333.20176a), section 7212 as amended by
2012 PA 183, section 7214 as amended by 1982 PA 352, section
7301a as amended by 2006 PA 392, section 7303 as amended by 1988
PA 60, sections 16169 and 16170a as added and section 16192 as
amended by 1993 PA 80, section 16174 as amended by 2012 PA 49,

sections 16216 and 16237 as added and section 16241 as amended by 1993 PA 87, section 16221 as amended by 2012 PA 501, sections 16222 and 16231a as added and sections 16232 and 17768 as amended by 1993 PA 79, section 16226 as amended by 2012 PA 499, sections 16231 and 16233 as amended by 2010 PA 382, section 16245 as amended by 2011 PA 223, section 16315 as amended by 2009 PA 216, section 17754 as amended by 2012 PA 209, section 17775 as added by 2012 PA 383, and section 20176a as amended by 1994 PA 52, and by adding article 8; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7212. (1) The following controlled substances are
2 included in schedule 1:

3 (a) Any of the following opiates, including their isomers,
4 esters, the ethers, salts, and salts of isomers, esters, and
5 ethers, unless specifically excepted, when the existence of these
6 isomers, esters, ethers, and salts is possible within the
7 specific chemical designation:

8 Acetylmethadol	Difenoxin	Noracymethadol
9 Allylprodine	Dimenoxadol	Norlevorphanol
10 Alpha-acetylmethadol	Dimepheptanol	Normethadone
11 Alphameprodine	Dimethylthiambutene	Norpipanone
12 Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
13 Benzethidine	Dipipanone	Phenampromide
14 Betacetylmethadol	Ethylmethylthiambutene	Phenomorphane
15 Betameprodine	Etonitazene	Phenoperidine
16 Betamethadol	Etoxeridine	Piritramide
17 Betaprodine	Furethidine	Proheptazine

1	Clonitazene	Hydroxypethidine	Properidine
2	Dextromoramide	Ketobemidone	Propiram
3	Diampromide	Levomoramide	Racemoramide
4	Diethylthiambutene	Levophenacylmorphan	Trimeperidine
5		Morpheridine	

6 (b) Any of the following opium derivatives, their salts,
7 isomers, and salts of isomers, unless specifically excepted, when
8 the existence of these salts, isomers, and salts of isomers is
9 possible within the specific chemical designation:

10	Acetorphine	Drotebanol	Morphine-N-Oxide
11	Acetyldihydrocodeine	Etorphine	Myrophine
12	Benzylmorphine	Heroin	Nicocodeine
13	Codeine methylbromide	Hydromorphenol	Nicomorphine
14	Codeine-N-Oxide	Methyldesorphine	Normorphine
15	Cyprenorphine	Methyldihydromorphine	Pholcodine
16	Desomorphine	Morphine methylbromide	Thebacon
17	Dihydromorphine	Morphine methylsulfonate	

18 (c) Any material, compound, mixture, or preparation which
19 contains any quantity of the following hallucinogenic substances,
20 their salts, isomers, and salts of isomers, unless specifically
21 excepted, when the existence of these salts, isomers, and salts
22 of isomers is possible within the specific chemical designation:

23 2-Methylamino-1-phenylpropan-1-one
24 Some trade and other names:
25 Methcathinone
26 Cat

1 Ephedrone
2 3, 4-methylenedioxy amphetamine
3 5-methoxy-3, 4-methylenedioxy
4 amphetamine
5 3, 4, 5-trimethoxy amphetamine
6 Bufotenine
7 Some trade and other names:
8 3-(B-dimethylaminoethyl)-5 hydroxyindole
9 3-(2-dimethylaminoethyl)-5 indolol
10 N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine
11 Mappine
12 2, 5-Dimethoxyamphetamine
13 Some trade or other names:
14 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA
15 4-Bromo-2, 5-Dimethoxyamphetamine
16 Some trade or other names:
17 4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo
18 2,5-DMA
19 Diethyltryptamine
20 Some trade and other names:
21 N,N-Diethyltryptamine; DET
22 Dimethyltryptamine
23 Some trade or other names:
24 DMT
25 4-methyl-2, 5-dimethoxyamphetamine
26 Some trade and other names:
27 4-methyl-2, 5-dimethoxy-a-methyl-phenethylamine
28 DOM, STP
29 4-methoxyamphetamine
30 Some trade or other names:
31 4-methoxy-a-methylphenethylamine; paramethoxy amphetamine;

- 1 PMA
- 2 Ibogaine
- 3 Some trade and other names:
- 4 7-Ethyl-6,6a,7,8,9,10,12,13
- 5 Octahydro-2-methoxy-6,9-methano-5H-
- 6 pyrido (1, 2:1, 2 azepino 4, 5-b) indole
- 7 tabernanthe iboga
- 8 Lysergic acid diethylamide
- 9 Marihuana, **INCLUDING PHARMACEUTICAL-GRADE CANNABIS**
- 10 Mecloqualone
- 11 Mescaline
- 12 Peyote
- 13 N-ethyl-3 piperidyl benzilate
- 14 N-methyl-3 piperidyl benzilate
- 15 Psilocybin
- 16 Psilocyn
- 17 Thiophene analog of phencyclidine
- 18 Some trade or other names:
- 19 1-(1-(2-thienyl)cyclohexyl) piperidine}
- 20 2-thienyl analog of phencyclidine; TCP
- 21 (d) Synthetic equivalents of the substances contained in the
- 22 plant, or in the resinous extractives of cannabis and synthetic
- 23 substances, derivatives, and their isomers with similar chemical
- 24 structure or pharmacological activity, or both, such as the
- 25 following, are included in schedule 1:
- 26 (i) \triangle^1 cis or trans tetrahydrocannabinol, and their optical
- 27 isomers.
- 28 (ii) \triangle^6 cis or trans tetrahydrocannabinol, and their optical
- 29 isomers.

1 (iii) $\Delta^{3,4}$, cis or trans tetrahydrocannabinol, and their
2 optical isomers.

3 (e) Compounds of structures of substances referred to in
4 subdivision (d), regardless of numerical designation of atomic
5 positions, are included.

6 (f) Gamma-hydroxybutyrate and any isomer, salt, or salt of
7 isomer of gamma-hydroxybutyrate.

8 Some trade and other names:

9 Sodium oxybate

10 4-hydroxybutanoic acid monosodium salt

11 (g) 3,4-methylenedioxymethamphetamine.

12 Some trade and other names:

13 Ecstasy

14 MDMA

15 (h) N-Benzylpiperazine

16 Some trade and other names:

17 BZP

18 Benzylpiperazine

19 1-(phenylmethyl)-piperazine

20 (i) 3-Chlorophenylpiperazine

21 Some trade and other names:

22 MCPP

1 (j) 1-(3-Trifluoromethylphenyl)piperazine

2 Some trade and other names:

3 TFMPP

4 (k) 4-Bromo-2,5-dimethoxybenzylpiperazine

5 Some trade and other names:

6 2C-B-BZP

7 (l) All of the following:

8 (i) (6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-
9 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol.

10 Some trade and other names:

11 HU-210

12 (ii) 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-
13 yl)phenol and its side chain homologues.

14 Some trade and other names:

15 CP47,497

16 (iii) 1-pentyl-3-(1-naphthoyl)indole.

17 Some trade and other names:

18 JWH-018

19 (iv) 1-butyl-3-(1-naphthoyl)indole.

20 Some trade and other names:

1 JWH-073

2 (v) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-
3 methanone.

4 Some trade and other names:

5 JWH-015

6 (vi) [1-[2-(4-morpholinyl)ethyl]-1H-indol-3-yl]-1-
7 naphthalenyl-methanone.

8 Some trade and other names:

9 JWH-200

10 (vii) 1-(1-pentyl-1H-indol-3-yl)-2-(2-methoxyphenyl)-
11 ethanone.

12 Some trade and other names:

13 JWH-250

14 (m) Mephedrone (4-methylmethcathinone).

15 Some trade and other names:

16 4-MMC, M-Cat, meow meow, miaow miaow, bounce, bubbles, bubble
17 love, mad cow, plant food, drone, and neo doves

18 (n) 4-Methyl-alpha-pyrrolidinobutyrophenone.

19 Some trade and other names:

20 MPBP

1 (o) Methylenedioxypropylone

2 Some trade and other names:

3 MDPV, Bath salts, charge plus, cloud nine, hurricane Charlie,
4 ivory wave, ocean, red dove, scarface, sonic, white dove, white
5 lightning

6 (p) 5,6-Methylenedioxy-2-aminoindane

7 Some trade and other names:

8 MDAI

9 Woof-woof

10 (q) Naphyrone (Naphthylpropylone)

11 Some trade and other names:

12 NRG-1

13 Rave

14 (r) Propylone (1-(4-Methylphenyl)-2-(1-pyrrolidinyl)-1-
15 pentanone)

16 (s) *Catha edulis*; except as provided in subdivision (t) and
17 section 7218, all parts of the plant presently classified
18 botanically as *catha edulis*, whether growing or not; the leaves
19 and seeds of that plant; any extract from any part of that plant;
20 and every compound, salt, derivative, mixture, or preparation of
21 that plant or its leaves, seeds, or extracts.

22 Some trade and other names:

23 Khat

1 Qat

2 (t) Cathinone.

3 (u) Salvia divinorum; except as provided in subdivision (v),
4 all parts of the plant presently classified botanically as salvia
5 divinorum, whether growing or not; the leaves and seeds of that
6 plant; any extract from any part of that plant; and every
7 compound, salt, derivative, mixture, or preparation of that plant
8 or its leaves, seeds, or extracts.

9 (v) Salvinorin A.

10 **(2) MARIHUANA, INCLUDING PHARMACEUTICAL-GRADE CANNABIS, IS A**
11 **SCHEDULE 2 CONTROLLED SUBSTANCE IF IT IS MANUFACTURED, OBTAINED,**
12 **STORED, DISPENSED, POSSESSED, GROWN, OR DISPOSED OF IN COMPLIANCE**
13 **WITH THIS ACT AND AS AUTHORIZED BY FEDERAL AUTHORITY.**

14 (3) ~~(2)~~—For purposes of subsection (1), "isomer" includes
15 the optical, position, and geometric isomers.

16 Sec. 7214. The following controlled substances are included
17 in schedule 2:

18 (a) Any of the following substances, except those narcotic
19 drugs listed in other schedules, whether produced directly or
20 indirectly by extraction from substances of vegetable origin, or
21 independently by means of chemical synthesis, or by combination
22 of extraction and chemical synthesis:

23 (i) Opium and opiate, and any salt, compound, derivative, or
24 preparation of opium or opiate excluding nalaxone and its salts,
25 and excluding naltrexone and its salts, but including the
26 following:

1	Raw opium	Etorphine hydrochloride
2	Opium extracts	Hydrocodone
3	Opium Fluid-extracts	Hydromorphone
4	Powdered opium	Metopon
5	Granulated opium	Morphine
6	Tincture of opium	Oxycodone
7	Codeine	Oxymorphone
8	Ethylmorphine	Thebaine

9 (ii) A salt, compound, derivative, or preparation thereof
10 which is chemically equivalent to or identical with a substance
11 referred to in **THIS** subdivision, ~~(a)~~, except that these
12 substances do not include the isoquinoline alkaloids of opium.

13 (iii) Opium poppy, poppy straw, and concentrate of poppy
14 straw, the crude extract of poppy straw in either liquid, solid,
15 or powder form, which contains the phenanthrene alkaloids of the
16 opium poppy.

17 (iv) Coca leaves and any salt, compound, derivative, or
18 preparation thereof which is chemically equivalent to or
19 identical with any of these substances, except that the
20 substances do not include decocainized coca leaves or extraction
21 of coca leaves which extractions do not contain cocaine or
22 ecgonine. The substances include cocaine, its salts,
23 stereoisomers, and salts of stereoisomers when the existence of
24 the salts, stereoisomers, and salts of stereoisomers is possible
25 within the specific chemical designation.

26 (b) Any of the following opiates, including their isomers,
27 esters, ethers, salts, and salts of isomers, when the existence

1 of these isomers, esters, ethers, and salts is possible within
2 the specific chemical designation:

3	Alphaprodine	Fentanyl
4	Anileridine	Isomethadone
5	Bezitramide	Levomethorphan
6	Dihydrocodeine	Levorphanol
7	Diphenoxylate	Metazocine
8		
9	Methadone	
10	Methadone-Intermediate, 4-cyano-2dimethylamino-4, 4-diphenyl butane	
11	Moramide-Intermediate, 2-methyl-3-morpholino-1,	
12	1-diphenylpropane-carboxylic acid	
13		
14	Pethidine	
15	Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine	
16	Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate	
17	Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-	
18	carboxylic acid	
19		
20	Phenazocine	Racemethorphan
21	Piminodine	Racemorphan

22 (c) Unless listed in another schedule, any material,
23 compound, mixture, or preparation which contains any quantity of
24 the following substances having potential for abuse associated
25 with a stimulant effect on the nervous system:

26 (i) Amphetamine, its salts, optical isomers, and salts of its
27 optical isomers.

28 (ii) Any substance which contains any quantity of

1 methamphetamine, including its salts, stereoisomers, and salts of
2 stereoisomers.

3 (iii) Phenmetrazine and its salts.

4 (iv) Methylphenidate and its salts.

5 (d) Any material, compound, mixture, or preparation,
6 including its salts, isomers, and salts of isomers when the
7 existence of the salts, isomers, and salts of isomers is possible
8 within the specific chemical designation as listed in schedule 2,
9 which contains any quantity of the following substances having a
10 potential for abuse associated with the depressant effect on the
11 central nervous system: methaqualone, amobarbital, pentobarbital,
12 or secobarbital; or, any compound, mixture, or preparation
13 containing amobarbital, secobarbital, pentobarbital, or any salt
14 thereof in combination with itself, with another, or with 1 or
15 more other controlled substances.

16 (e) Marihuana, but only for ~~use as provided in sections 7335~~
17 ~~and 7336.~~ **THE PURPOSE OF TREATING A DEBILITATING MEDICAL CONDITION**
18 **AS THAT TERM IS DEFINED IN SECTION 3(B) OF THE MICHIGAN MEDICAL**
19 **MARIHUANA ACT, 2008 IL 1, MCL 333.26423, AND AS AUTHORIZED UNDER**
20 **THIS ACT.**

21 Sec. 7301a. Licensing activities conducted under this part
22 are subject to sections 16201, 16203, 16299, 16303, 16305, 16307,
23 16309, and 16313 **AND ARTICLE 8.**

24 Sec. 7303. (1) A person who manufactures, distributes,
25 prescribes, or dispenses a controlled substance in this state or
26 who proposes to engage in the manufacture, distribution,
27 prescribing, or dispensing of a controlled substance in this

1 state shall obtain a license issued by the administrator in
2 accordance with the rules. A person who has been issued a
3 controlled substances license by the administrator under this
4 article and a license under article 15 shall renew the controlled
5 substances license concurrently with the renewal of the license
6 issued under article 15, and for an equal number of years.

7 (2) A person licensed by the administrator under this
8 article to manufacture, distribute, prescribe, dispense, or
9 conduct research with controlled substances may possess,
10 manufacture, distribute, prescribe, dispense, or conduct research
11 with those substances to the extent authorized by its license and
12 in conformity with the other provisions of this article.

13 (3) **A LICENSE ISSUED UNDER THIS ARTICLE TO MANUFACTURE,
14 DISTRIBUTE, PRESCRIBE, OR DISPENSE PHARMACEUTICAL-GRADE CANNABIS
15 AND THE CONDUCT OF THE LICENSEE IS SUBJECT TO THE ADDITIONAL
16 REQUIREMENTS OF ARTICLE 8.**

17 (4) ~~(3)~~—The following persons need not be licensed and may
18 lawfully possess controlled substances or prescription forms
19 under this article:

20 (a) An agent or employee of a licensed manufacturer,
21 distributor, prescriber, or dispenser of a controlled substance
22 if acting in the usual course of the agent's or employee's
23 business or employment.

24 (b) A common or contract carrier or warehouseman, or an
25 employee thereof, whose possession of a controlled substance or
26 prescription form is in the usual course of business or
27 employment.

1 (c) An ultimate user or agent in possession of a controlled
2 substance or prescription form pursuant to a lawful order of a
3 practitioner or in lawful possession of a schedule 5 substance.

4 (5) ~~(4)~~—The administrator may waive or include by rule the
5 requirement for licensure of certain manufacturers, distributors,
6 prescribers, or dispensers, if it finds the waiver or inclusion
7 is consistent with the public health and safety.

8 (6) ~~(5)~~—A separate license is required at each principal
9 place of business or professional practice where the applicant
10 manufactures, distributes, prescribes, or dispenses controlled
11 substances.

12 (7) ~~(6)~~—As a requisite for licensure, the administrator may
13 inspect the establishment of a licensee or applicant for
14 licensure in accordance with the administrator's rule.

15 (8) ~~(7)~~—A person licensed under this article to distribute
16 controlled substances shall report to the administrator on a
17 quarterly basis all schedule 2 controlled substances and those
18 controlled substances designated by the administrator pursuant to
19 this subsection ~~which~~ **THAT** are sold to licensed practitioners and
20 retail pharmacies. The report shall be in writing and shall
21 include the name of each licensed practitioner and retail
22 pharmacy to whom the controlled substance was distributed. A
23 report under this subsection may be transmitted electronically,
24 if the transmission is ultimately reduced to writing. The
25 administrator shall designate by rule the controlled substances
26 in schedules 3 to 5 to be reported under this subsection.

27 **ARTICLE 8**

1 PHARMACEUTICAL-GRADE CANNABIS

2 PART 81

3 GENERAL PROVISIONS

4 SEC. 8101. (1) FOR PURPOSES OF THIS ARTICLE, THE WORDS AND
5 PHRASES DEFINED IN SECTIONS 8103 TO 8107 HAVE THE MEANINGS
6 ASCRIBED TO THEM IN THOSE SECTIONS.

7 (2) IN ADDITION, ARTICLE 1 CONTAINS GENERAL DEFINITIONS AND
8 PRINCIPLES OF CONSTRUCTION APPLICABLE TO ALL ARTICLES IN THIS
9 ACT.

10 SEC. 8103. (1) "APPLICANT" MEANS THE PERSON SUBMITTING AN
11 APPLICATION FOR A NEW LICENSE OR LICENSE RENEWAL UNDER PART 82
12 AND INCLUDES EACH INDIVIDUAL IDENTIFIED IN THE APPLICATION AS AN
13 OWNER, OPERATOR, OFFICER, DIRECTOR, PARTNER, MEMBER, OR MANAGER
14 OF THE APPLICANT.

15 (2) "CBD" AND "CBD ACID" MEAN CANNABIDIOL AND CANNABIDIOL
16 ACID.

17 (3) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

18 (4) "ELIGIBLE PATIENT" MEANS AN INDIVIDUAL WHO MEETS THE
19 REQUIREMENTS OF PART 84 AND HAS BEEN ISSUED AN ENHANCED
20 PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARD.

21 (5) "ENHANCED PHARMACEUTICAL-GRADE CANNABIS REGISTRATION
22 CARD" OR "REGISTRATION CARD" MEANS THE REGISTRATION CARD ISSUED
23 TO AN ELIGIBLE PATIENT UNDER PART 84.

24 (6) "GOOD MORAL CHARACTER" MEANS THAT TERM AS DEFINED IN
25 SECTION 1 OF 1974 PA 381, MCL 338.41.

26 SEC. 8105. (1) "MARIHUANA" MEANS THAT TERM AS DEFINED IN
27 SECTION 7106 AND INCLUDES PHARMACEUTICAL-GRADE CANNABIS.

1 (2) "MEDICAL USE" MEANS THE PURCHASE, SALE, POSSESSION, USE,
2 INTERNAL POSSESSION, DELIVERY, TRANSFER, OR TRANSPORTATION OF
3 PHARMACEUTICAL-GRADE CANNABIS OR PARAPHERNALIA RELATING TO THE
4 ADMINISTRATION OF PHARMACEUTICAL-GRADE CANNABIS TO TREAT OR
5 ALLEVIATE AN ELIGIBLE PATIENT'S DEBILITATING MEDICAL CONDITION.

6 (3) "MICHIGAN MEDICAL MARIHUANA ACT" MEANS THE MICHIGAN
7 MEDICAL MARIHUANA ACT, 2008 IL 1, MCL 333.26421 TO 333.26430.

8 (4) "PHARMACEUTICAL-GRADE CANNABIS" MEANS A GRADE OF
9 CANNABIS THAT IS CULTIVATED FOR THE PURPOSES OF THIS ARTICLE;
10 THAT IS FREE OF CHEMICAL RESIDUES SUCH AS FUNGICIDES AND
11 INSECTICIDES AND IS TESTED BY VALIDATED METHODS TO DETERMINE ITS
12 CANNABINOID LEVELS, SPECIFICALLY, THC AND THC ACID LEVELS AND CBD
13 AND CBD ACID LEVELS AND COMPLIES WITH THE STANDARDS SET FORTH IN
14 SECTION 8303(6) FOR ITS MICROBIAL, MYCOTOXIN, AND METAL CONTENTS,
15 INCLUDING HEAVY METALS; AND THAT MEETS ANY OTHER NECESSARY
16 REQUIREMENTS TO BE CONSIDERED IN COMPLIANCE WITH GOOD
17 MANUFACTURING PRACTICES AS PRESCRIBED IN RULES PROMULGATED BY THE
18 DEPARTMENT UNDER THIS ARTICLE.

19 (5) "PHARMACEUTICAL-GRADE CANNABIS FUND" OR "FUND" MEANS THE
20 PHARMACEUTICAL-GRADE CANNABIS FUND CREATED IN SECTION 8113.

21 (6) "PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY" OR
22 "LICENSED FACILITY" MEANS ANY SECURE ENTITY, OPERATION, OR
23 FACILITY AT OR THROUGH WHICH PHARMACEUTICAL-GRADE CANNABIS IS
24 MANUFACTURED, CULTIVATED, AND TESTED IN THIS STATE FOR LAWFUL
25 MEDICAL USE AS PROVIDED FOR IN THIS ARTICLE AND THE MICHIGAN
26 MEDICAL MARIHUANA ACT. PHARMACEUTICAL-GRADE CANNABIS LICENSED
27 FACILITY DOES NOT INCLUDE A QUALIFYING PATIENT OR PRIMARY

1 CAREGIVER WHO POSSESSES OR CULTIVATES MARIHUANA IN THE MANNER
2 PRESCRIBED IN THE MICHIGAN MEDICAL MARIHUANA ACT OR AN ELIGIBLE
3 PATIENT WHO POSSESSES PHARMACEUTICAL-GRADE CANNABIS IN THE MANNER
4 PRESCRIBED IN THIS ARTICLE.

5 SEC. 8107. (1) "QUALIFYING PATIENT" MEANS AN INDIVIDUAL WHO
6 HAS BEEN ISSUED A REGISTRY IDENTIFICATION CARD AS A QUALIFYING
7 PATIENT UNDER THE MICHIGAN MEDICAL MARIHUANA ACT.

8 (2) "THC" MEANS DELTA-9-TETRAHYDROCANNABINOL AND
9 TETRAHYDROCANNABINOL ACID.

10 SEC. 8109. (1) A PERSON SHALL NOT MANUFACTURE, DISTRIBUTE,
11 PRESCRIBE, OR DISPENSE PHARMACEUTICAL-GRADE CANNABIS WITHOUT
12 FIRST OBTAINING A LICENSE TO MANUFACTURE, DISTRIBUTE, PRESCRIBE,
13 OR DISPENSE A CONTROLLED SUBSTANCE UNDER ARTICLE 7.

14 (2) A LICENSE ISSUED UNDER ARTICLE 7 TO MANUFACTURE,
15 DISTRIBUTE, PRESCRIBE, OR DISPENSE PHARMACEUTICAL-GRADE CANNABIS
16 AND THE CONDUCT OF A PERSON LICENSED TO MANUFACTURE, DISTRIBUTE,
17 PRESCRIBE, OR DISPENSE PHARMACEUTICAL-GRADE CANNABIS UNDER THAT
18 LICENSE IS SUBJECT TO THE ADDITIONAL REQUIREMENTS OF THIS
19 ARTICLE.

20 (3) ARTICLE 7 AND THIS ARTICLE DO NOT APPLY TO CONDUCT
21 PERMITTED UNDER THE MICHIGAN MEDICAL MARIHUANA ACT.

22 SEC. 8111. (1) BEGINNING ON THE EFFECTIVE DATE OF THIS
23 ARTICLE, THE DIRECTOR MAY CHARGE A REASONABLE FEE FOR LICENSING,
24 REGISTRATION, INSPECTION, TESTING, OR OTHER ACTIVITY OR SERVICE
25 PROVIDED BY THE DEPARTMENT UNDER THIS ARTICLE. THE FEE AUTHORIZED
26 UNDER THIS SUBSECTION IS IN ADDITION TO ANY FEE AUTHORIZED UNDER
27 ARTICLE 7. ALL FEES PERMITTED UNDER THIS SECTION SHALL BE

1 DELIVERED TO THE STATE TREASURER ON A MONTHLY BASIS FOR DEPOSIT
2 IN THE PHARMACEUTICAL-GRADE CANNABIS FUND.

3 (2) BEFORE COLLECTING A FEE UNDER THIS ARTICLE, THE
4 DEPARTMENT SHALL DEVELOP AND PUBLISH A COMPREHENSIVE SCHEDULE OF
5 FEES. THE SCHEDULE SHALL INCLUDE A DESCRIPTION OF EACH ACTIVITY
6 OR SERVICE AND THE MAXIMUM FEE CHARGED FOR THAT ACTIVITY OR
7 SERVICE. THE DEPARTMENT SHALL INCLUDE A STATEMENT OF THE RATIONALE
8 USED IN DETERMINING THE FEES CONTAINED IN THE SCHEDULE. THE
9 DEPARTMENT SHALL REVISE THE FEE SCHEDULE FROM TIME TO TIME SO
10 THAT THE AMOUNT OF FEES COLLECTED UNDER THIS ARTICLE DOES NOT
11 EXCEED THE AMOUNT NECESSARY TO FUND THE DUTIES OF THE DEPARTMENT
12 UNDER THIS ARTICLE.

13 SEC. 8113. (1) THE PHARMACEUTICAL-GRADE CANNABIS FUND IS
14 CREATED WITHIN THE STATE TREASURY. IN ADDITION TO THE FEES
15 DESCRIBED IN SECTION 8111, THE STATE TREASURER MAY RECEIVE MONEY
16 OR OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE
17 STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND. THE
18 STATE TREASURER SHALL CREDIT TO THE FUND INTEREST AND EARNINGS
19 FROM FUND INVESTMENTS. MONEY IN THE FUND AT THE CLOSE OF THE
20 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE
21 GENERAL FUND.

22 (2) THE DEPARTMENT IS THE ADMINISTRATOR OF THE FUND FOR
23 AUDITING PURPOSES AND THE DEPARTMENT SHALL EXPEND MONEY FROM THE
24 FUND, UPON APPROPRIATION, ONLY FOR THE DIRECT AND INDIRECT COSTS
25 ASSOCIATED WITH IMPLEMENTING, ADMINISTERING, AND ENFORCING THIS
26 ARTICLE.

27 SEC. 8115. THE DEPARTMENT SHALL PROMULGATE RULES NECESSARY

1 TO CARRY OUT THIS ARTICLE. THE RULES SHALL ADDRESS, BUT ARE NOT
2 REQUIRED TO BE LIMITED TO ADDRESSING, ALL OF THE FOLLOWING
3 SUBJECTS:

4 (A) IF NOT SPECIFICALLY PROVIDED FOR IN THIS ARTICLE,
5 ACTIVITIES NECESSARY FOR THE COMPLIANCE WITH OR ENFORCEMENT OF OR
6 ACTIVITIES THAT CONSTITUTE A VIOLATION OF THIS ARTICLE,
7 INCLUDING, BUT NOT LIMITED TO, PROCEDURES AND GROUNDS FOR
8 DENYING, SUSPENDING, OR REVOKING A LICENSE OR REGISTRATION CARD
9 UNDER THIS ARTICLE.

10 (B) INSTRUCTIONS FOR LOCAL HEALTH DEPARTMENTS AND LAW
11 ENFORCEMENT OFFICERS.

12 (C) ALL FORMS NECESSARY OR CONVENIENT FOR THE
13 IMPLEMENTATION, ADMINISTRATION, AND ENFORCEMENT OF THIS ARTICLE.

14 (D) ACTIVITIES THAT CONSTITUTE OR RESULT IN
15 MISREPRESENTATION OR UNFAIR, DECEPTIVE PRACTICES.

16 (E) PROCEDURES AND FORMS FOR ISSUING ENHANCED
17 PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARDS.

18 (F) REGULATING THE MANUFACTURING, INVENTORY, STORAGE,
19 DISPOSAL, AND SALE OF PHARMACEUTICAL-GRADE CANNABIS AND
20 SPECIFYING LEGITIMATE SOURCES FOR OBTAINING SEED TO CULTIVATE
21 PHARMACEUTICAL-GRADE CANNABIS.

22 (G) THE QUARTERLY REPORTING BY LICENSED FACILITIES OF THEIR
23 INVENTORY, WHICH SHALL INCLUDE THE NUMBER OF PLANTS UNDER
24 CULTIVATION, THE AMOUNT OF DRIED PLANT MATERIAL, THE AMOUNT OF
25 DESTROYED PLANTS, AND ALL SALES.

26 (H) COMPLIANCE WITH FEDERAL REGULATORY REQUIREMENTS.

27 (I) HEALTH AND SANITARY REQUIREMENTS FOR LICENSED

1 FACILITIES.

2 (J) RECORD KEEPING, RECORD RETENTION, RECORD STORAGE, AND
3 RECORD SECURITY REQUIREMENTS FOR PHARMACEUTICAL-GRADE CANNABIS
4 LICENSED FACILITIES.

5 (K) AUDIT REQUIREMENTS FOR LICENSED FACILITIES, WHICH SHALL
6 INCLUDE SELF REPORTING OF INVENTORY ON A MONTHLY BASIS, SUBJECT
7 TO INSPECTION BY DESIGNATED STATE AND FEDERAL AUTHORITIES.

8 (L) PHYSICAL SECURITY REQUIREMENTS FOR PHARMACEUTICAL-GRADE
9 CANNABIS THAT AT A MINIMUM INCLUDE LIGHTING AND ALARMS.

10 (M) THE REPORTING AND TRANSMITTAL OF MONTHLY SALES AND
11 INCOME TAX PAYMENTS FOR LICENSED FACILITIES.

12 (N) AUTHORIZATION FOR THE DEPARTMENT OF TREASURY TO HAVE
13 ACCESS TO LICENSING INFORMATION TO ENSURE SALES AND INCOME TAX
14 PAYMENTS FOR LICENSED FACILITIES.

15 (O) ACTIVITIES THAT CONSTITUTE LAWFUL AND UNLAWFUL FINANCIAL
16 ARRANGEMENTS BETWEEN LICENSED FACILITIES.

17 (P) THE QUANTITY OF PHARMACEUTICAL-GRADE CANNABIS PLANTS AND
18 DRIED PLANT MATERIAL THAT A LICENSED FACILITY MAY POSSESS IN ITS
19 INVENTORY AT ANY TIME.

20 (Q) OTHER MATTERS NECESSARY FOR THE FAIR, IMPARTIAL,
21 STRINGENT, AND COMPREHENSIVE IMPLEMENTATION, ADMINISTRATION, AND
22 ENFORCEMENT OF THIS ARTICLE TO PROTECT THE HEALTH, SAFETY, AND
23 WELFARE OF THE RESIDENTS OF THIS STATE.

24 SEC. 8117. THE DEPARTMENT SHALL ESTABLISH A PHARMACEUTICAL-
25 GRADE CANNABIS LICENSED FACILITY REGISTRY. THE REGISTRY SHALL BE
26 AN ONLINE DATABASE THAT CONTAINS INFORMATION REGARDING THE
27 PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES LICENSED UNDER

1 PART 82. INFORMATION IN THE DATABASE SHALL BE MADE AVAILABLE TO
2 THE PUBLIC.

3 SEC. 8119. BY JANUARY 31 OF EACH CALENDAR YEAR, THE
4 DEPARTMENT SHALL SUBMIT TO THE LEGISLATURE AN ANNUAL REPORT FOR
5 THE PREVIOUS CALENDAR YEAR THAT CONTAINS ALL OF THE FOLLOWING
6 INFORMATION:

7 (A) THE TOTAL AMOUNT OF FEES COLLECTED UNDER THIS ARTICLE.

8 (B) ALL COSTS RELATED TO PERFORMING THE DUTIES OF THE
9 DEPARTMENT UNDER THIS ARTICLE.

10 (C) FINES, SUSPENSIONS, OR LICENSE REVOCATIONS THAT WERE
11 IMPOSED BY THE DEPARTMENT UNDER THIS ARTICLE.

12 (D) ANY OTHER INFORMATION THE DEPARTMENT CONSIDERS
13 APPROPRIATE UNDER THIS ARTICLE.

14 PART 81A

15 PRESCRIBING AND DISPENSING PHARMACEUTICAL-GRADE CANNABIS

16 SEC. 8151. A PHYSICIAN WHO DETERMINES THAT HIS OR HER
17 PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT
18 FROM THE USE OF PHARMACEUTICAL-GRADE CANNABIS TO TREAT OR
19 ALLEVIATE THE PATIENT'S DEBILITATING MEDICAL CONDITION OR
20 SYMPTOMS OF THE PATIENT'S DEBILITATING MEDICAL CONDITION MAY
21 RECOMMEND THE ISSUANCE OF AN ENHANCED PHARMACEUTICAL-GRADE
22 CANNABIS REGISTRATION CARD TO THAT PATIENT AS AN ELIGIBLE
23 PATIENT.

24 SEC. 8152. (1) THE DEPARTMENT MAY ISSUE AN ENHANCED
25 PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARD TO AN ELIGIBLE
26 PATIENT WHO IS RECOMMENDED BY A PHYSICIAN TO OBTAIN A
27 REGISTRATION CARD AND WHO PROPERLY APPLIES FOR THAT CARD. BEFORE

1 ISSUING A CARD TO AN ELIGIBLE PATIENT UNDER THIS SECTION, THE
2 DEPARTMENT SHALL DETERMINE WHETHER THE INDIVIDUAL HAS PREVIOUSLY
3 BEEN CONVICTED OF ILLEGALLY MANUFACTURING, CREATING,
4 DISTRIBUTING, POSSESSING, OR USING A CONTROLLED SUBSTANCE OR
5 CONSPIRING OR ATTEMPTING TO MANUFACTURE, CREATE, DISTRIBUTE,
6 POSSESS, OR USE A CONTROLLED SUBSTANCE IN THIS STATE OR
7 ELSEWHERE. IF THE INDIVIDUAL HAS PREVIOUSLY BEEN CONVICTED OF
8 ILLEGALLY MANUFACTURING, CREATING, DISTRIBUTING, POSSESSING, OR
9 USING A CONTROLLED SUBSTANCE OR CONSPIRING OR ATTEMPTING TO
10 MANUFACTURE, CREATE, DISTRIBUTE, POSSESS, OR USE A CONTROLLED
11 SUBSTANCE IN THIS STATE OR ELSEWHERE, THE DEPARTMENT SHALL NOT
12 ISSUE A REGISTRATION CARD TO THAT INDIVIDUAL.

13 (2) IF AN INDIVIDUAL HAS A REGISTRY IDENTIFICATION CARD AS
14 DEFINED IN SECTION 3 OF THE MICHIGAN MEDICAL MARIHUANA ACT, 2008
15 IL 1, MCL 333.26423, THE DEPARTMENT SHALL REQUIRE THE INDIVIDUAL
16 TO SURRENDER THAT CARD BEFORE ISSUING THE INDIVIDUAL AN ENHANCED
17 PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARD UNDER THIS
18 SECTION.

19 SEC. 8153. (1) THE DEPARTMENT SHALL ENSURE THAT THE
20 FOLLOWING INFORMATION FOR EACH PHARMACEUTICAL-GRADE CANNABIS
21 REGISTRATION CARD IS ENTERED INTO THE LAW ENFORCEMENT INFORMATION
22 NETWORK:

23 (A) THE CARD REGISTRATION NUMBER.

24 (B) THE NAME AND ADDRESS OF THE INDIVIDUAL TO WHOM THE CARD
25 IS ISSUED.

26 (C) THE DATE THE CARD WAS ISSUED.

27 (D) THE NAME AND ADDRESS OF THE PHYSICIAN WHO AUTHORIZED

1 ISSUANCE OF THE CARD.

2 (2) SUBSECTION (1) DOES NOT AUTHORIZE THE DEPARTMENT TO
3 ENTER ANY INFORMATION INTO THE LAW ENFORCEMENT INFORMATION
4 NETWORK REGARDING THE DIAGNOSIS SUPPORTING ISSUANCE OF THE CARD
5 OR ANY MEDICAL INFORMATION REGARDING THE INDIVIDUAL TO WHOM THE
6 CARD HAS BEEN ISSUED.

7 SEC. 8154. (1) EACH PRESCRIPTION FOR PHARMACEUTICAL-GRADE
8 CANNABIS SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION:

9 (A) THE DATE THE PRESCRIPTION IS WRITTEN.

10 (B) THE DATE THE PRESCRIPTION IS FILLED.

11 (C) THE DOSAGE AND INSTRUCTIONS FOR USE, WHICH SHALL INCLUDE
12 THE PERCENTAGE OF TOTAL THC AND THE PERCENTAGE OF TOTAL CBD. A
13 PRESCRIPTION FOR PHARMACEUTICAL-GRADE CANNABIS SHALL NOT ALLOW
14 THE INDIVIDUAL TO WHOM THE PRESCRIPTION IS ISSUED TO OBTAIN MORE
15 THAN 2 OUNCES OF PHARMACEUTICAL-GRADE CANNABIS WITHIN A 30-DAY
16 PERIOD.

17 (D) THE NAME, ADDRESS, AND FEDERAL DRUG ENFORCEMENT
18 ADMINISTRATION NUMBER OF THE DISPENSING PHARMACY AND THE INITIALS
19 OF THE PHARMACIST WHO FILLS THE PRESCRIPTION.

20 (E) THE NAME, ADDRESS, AND AGE OF THE ELIGIBLE PATIENT FOR
21 WHOM THE PHARMACEUTICAL-GRADE CANNABIS IS PRESCRIBED.

22 PHARMACEUTICAL-GRADE CANNABIS SHALL NOT BE PRESCRIBED TO AN
23 INDIVIDUAL LESS THAN 18 YEARS OF AGE.

24 (F) THE PRODUCT BRAND NAME, IF A BRAND NAME IS SPECIFIED BY
25 THE PRESCRIBER.

26 (2) THE DEPARTMENT SHALL REQUIRE THE USE OF THE ELECTRONIC
27 SYSTEM ESTABLISHED UNDER SECTION 7333A FOR MONITORING

1 PHARMACEUTICAL-GRADE CANNABIS DISPENSED UNDER THIS SECTION AS A
2 SCHEDULE 2 CONTROLLED SUBSTANCE.

3 (3) THE DIRECTOR SHALL PERMIT ACCESS TO INFORMATION
4 SUBMITTED TO THE DEPARTMENT UNDER THIS ARTICLE ONLY TO THE
5 FOLLOWING INDIVIDUALS AND AS PROVIDED IN THIS ARTICLE:

6 (A) EMPLOYEES AND AGENTS OF THE DEPARTMENT AUTHORIZED BY THE
7 DIRECTOR OF THE DEPARTMENT.

8 (B) EMPLOYEES OF THE DEPARTMENT OF STATE POLICE AUTHORIZED
9 BY THE ADMINISTRATOR AS DEFINED IN ARTICLE 7 FOR THE PURPOSE OF
10 COOPERATING AND ASSISTING A GOVERNMENTAL AGENCY THAT IS
11 RESPONSIBLE FOR THE ENFORCEMENT OF LAWS RELATING TO CONTROLLED
12 SUBSTANCES OR A PRESCRIBING PHYSICIAN CONCERNING AN INDIVIDUAL
13 SUSPECTED OF ATTEMPTING TO OBTAIN A CONTROLLED SUBSTANCE BY
14 FRAUD, DECEIT, OR MISREPRESENTATION.

15 (C) A PERSON WITH WHOM THE DEPARTMENT HAS CONTRACTED UNDER
16 SUBSECTION (8).

17 (4) INFORMATION SUBMITTED TO THE DEPARTMENT UNDER THIS
18 SECTION IS CONFIDENTIAL, BUT MAY BE RELEASED TO PERSONS
19 AUTHORIZED BY THE DIRECTOR TO CONDUCT RESEARCH STUDIES OR TO
20 OTHER PERSONS AUTHORIZED BY THE DIRECTOR. HOWEVER, SUBJECT TO
21 SUBSECTION (5) AND SECTION 8153, INFORMATION SHALL BE RELEASED
22 FOR STATISTICAL PURPOSES ONLY.

23 (5) THE SYSTEM FOR RETRIEVAL OF INFORMATION SUBMITTED TO THE
24 DEPARTMENT UNDER THIS SECTION SHALL BE DESIGNED IN ALL RESPECTS
25 SO AS TO PRECLUDE IMPROPER ACCESS TO INFORMATION.

26 (6) EXCEPT AS OTHERWISE PROVIDED IN THIS PART, INFORMATION
27 SUBMITTED TO THE DEPARTMENT UNDER THIS SECTION SHALL BE USED ONLY

1 FOR BONA FIDE DRUG-RELATED CRIMINAL INVESTIGATORY OR EVIDENTIARY
2 PURPOSES OR FOR INVESTIGATORY OR EVIDENTIARY PURPOSES IN
3 CONNECTION WITH THE FUNCTIONS OF 1 OR MORE OF THE LICENSING
4 BOARDS CREATED IN ARTICLE 15.

5 (7) THE IDENTITY OF AN INDIVIDUAL ELIGIBLE PATIENT THAT IS
6 SUBMITTED TO THE DEPARTMENT UNDER TO THIS SECTION SHALL BE
7 REMOVED FROM THE SYSTEM FOR RETRIEVAL OF THE INFORMATION
8 DESCRIBED IN THIS SECTION AND SHALL BE DESTROYED AND RENDERED
9 IRRETRIEVABLE NOT LATER THAN THE END OF THE CALENDAR YEAR
10 FOLLOWING THE YEAR IN WHICH THE INFORMATION WAS SUBMITTED TO THE
11 DEPARTMENT. HOWEVER, AN INDIVIDUAL ELIGIBLE PATIENT IDENTITY THAT
12 IS NECESSARY FOR USE IN A SPECIFIC ONGOING INVESTIGATION
13 CONDUCTED IN ACCORDANCE WITH THIS ACT MAY BE RETAINED IN THE
14 SYSTEM UNTIL THE END OF THE YEAR IN WHICH THE NECESSITY FOR
15 RETENTION OF THE IDENTITY ENDS.

16 (8) THE DEPARTMENT MAY ENTER INTO CONTRACTUAL AGREEMENTS FOR
17 THE ADMINISTRATION OF THIS SECTION.

18 PART 82

19 FACILITY LICENSING

20 SEC. 8201. TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF
21 RESIDENTS OF THIS STATE, THE DEPARTMENT SHALL LICENSE FACILITIES
22 UNDER THIS ARTICLE TO CULTIVATE, MANUFACTURE, AND TEST
23 PHARMACEUTICAL-GRADE CANNABIS IN THIS STATE. THE DEPARTMENT SHALL
24 IMPLEMENT, ADMINISTER, AND ENFORCE THIS ARTICLE TO ENSURE THAT A
25 SAFE, PURE, DOSAGE-CONSISTENT GRADE OF PHARMACEUTICAL-GRADE
26 CANNABIS IS AVAILABLE TO ELIGIBLE PATIENTS WHO ARE RESIDENTS OF
27 THIS STATE.

1 SEC. 8205. (1) THE DEPARTMENT SHALL NOT ISSUE A LICENSE TO
2 AN APPLICANT TO OPERATE A PHARMACEUTICAL-GRADE CANNABIS LICENSED
3 FACILITY UNLESS THE DEPARTMENT IS SATISFIED THAT ALL OF THE
4 FOLLOWING REQUIREMENTS ARE MET:

5 (A) ALL FEES REQUIRED UNDER THIS ARTICLE HAVE BEEN PAID.

6 (B) THE APPLICANT WILL OPERATE THE LICENSED FACILITY IN
7 COMPLIANCE WITH THIS ARTICLE.

8 (C) THE APPLICANT IS AN ADULT OF GOOD MORAL CHARACTER.

9 (D) THE APPLICANT IS NOT DELINQUENT IN FILING ANY TAX
10 RETURNS WITH A TAXING AGENCY; PAYING ANY TAXES, INTEREST, OR
11 PENALTIES; PAYING ANY JUDGMENTS DUE TO A GOVERNMENT AGENCY;
12 REPAYING GOVERNMENT-INSURED STUDENT LOANS; OR PAYING CHILD
13 SUPPORT.

14 (E) THE APPLICANT WILL NOT HIRE OR CONTRACT WITH ANY
15 INDIVIDUAL IN THE COURSE OF OPERATING A LICENSED FACILITY WITHOUT
16 FIRST CONDUCTING A CRIMINAL HISTORY CHECK IN THE MANNER
17 PRESCRIBED IN RULES PROMULGATED UNDER THIS ARTICLE.

18 (F) THE PREMISES WERE INSPECTED AND THE INSPECTION OF THE
19 PREMISES AND THE OPERATIONS OF THE APPLICANT DID NOT REVEAL ANY
20 REASON TO DENY THE LICENSE.

21 (G) THE CRIMINAL HISTORY CHECK CONDUCTED UNDER SUBSECTION
22 (2) DID NOT REVEAL ANY FELONY CONVICTIONS.

23 (H) ANY OTHER CRITERIA ESTABLISHED IN RULES PROMULGATED
24 UNDER THIS ARTICLE.

25 (2) AT THE TIME OF FILING AN APPLICATION FOR ISSUANCE OR
26 RENEWAL OF A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY
27 LICENSE, AN APPLICANT SHALL SUBMIT A SET OF HIS OR HER

1 FINGERPRINTS AND FILE PERSONAL HISTORY INFORMATION CONCERNING HIS
2 OR HER QUALIFICATIONS FOR A LICENSE UNDER THIS ARTICLE. THE
3 DEPARTMENT SHALL SUBMIT THE FINGERPRINTS TO THE DEPARTMENT OF
4 STATE POLICE FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED
5 CRIMINAL HISTORY CHECKS. THE DEPARTMENT OF STATE POLICE SHALL
6 FORWARD THE FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION
7 FOR THE PURPOSE OF CONDUCTING FINGERPRINT-BASED CRIMINAL HISTORY
8 CHECKS. THE DEPARTMENT MAY ACQUIRE A NAME-BASED CRIMINAL HISTORY
9 CHECK FOR AN APPLICANT WHO HAS TWICE SUBMITTED TO A FINGERPRINT-
10 BASED CRIMINAL HISTORY CHECK UNDER THIS PART AND WHOSE
11 FINGERPRINTS ARE UNCLASSIFIABLE. AN APPLICANT WHO HAS PREVIOUSLY
12 SUBMITTED FINGERPRINTS UNDER THIS PART MAY REQUEST THAT THE
13 FINGERPRINTS ON FILE BE USED. THE DEPARTMENT SHALL USE THE
14 INFORMATION RESULTING FROM THE FINGERPRINT-BASED CRIMINAL HISTORY
15 CHECK TO INVESTIGATE AND DETERMINE WHETHER AN APPLICANT IS
16 QUALIFIED TO HOLD A LICENSE UNDER THIS ARTICLE. THE DEPARTMENT
17 MAY VERIFY ANY OF THE INFORMATION AN APPLICANT IS REQUIRED TO
18 SUBMIT.

19 SEC. 8209. THE DEPARTMENT MAY DELEGATE THE DUTY OF
20 INSPECTIONS FOR APPROVAL OR RENEWAL OF PHARMACEUTICAL-GRADE
21 CANNABIS LICENSED FACILITY LICENSES TO A LOCAL HEALTH DEPARTMENT
22 THAT HAS THE TECHNICAL AND OTHER CAPABILITIES TO PROTECT THE
23 PUBLIC HEALTH, SAFETY, AND WELFARE IN THIS FIELD. THE DELEGATION
24 SHALL NOT TAKE PLACE UNLESS THE DEPARTMENT HAS FIRST CONSULTED
25 WITH AN AD HOC COMMITTEE THAT SHALL BE APPOINTED BY THE
26 DEPARTMENT FOR THE PURPOSE OF ADVISING ON THAT DELEGATION.
27 MEMBERSHIP ON THE AD HOC COMMITTEE SHALL INCLUDE REPRESENTATIVES

1 OF THE DEPARTMENT, LOCAL PUBLIC HEALTH AGENCIES, AND AN
2 ASSOCIATION THAT REPRESENTS THE PHARMACEUTICAL-GRADE CANNABIS
3 LICENSED FACILITIES THAT WOULD BE SUBJECT TO THE INSPECTIONS. IF
4 DELEGATED UNDER THIS SECTION, THE STATE SHALL REIMBURSE EACH
5 LOCAL HEALTH DEPARTMENT THE FULL AMOUNT OF THE FEES COLLECTED, AS
6 REIMBURSEMENT FOR THE COST OF INSPECTION, ON VOUCHERS CERTIFIED
7 BY THE LOCAL HEALTH OFFICER AND APPROVED BY THE DEPARTMENT.

8 SEC. 8211. NOT LATER THAN THE THIRTIETH DAY BEFORE THE
9 EXPIRATION OF AN ANNUAL LICENSE UNDER THIS PART, A PERSON
10 OPERATING A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY
11 SEEKING RELICENSURE SHALL APPLY FOR LICENSE RENEWAL AND SHALL PAY
12 A FEE AS PRESCRIBED IN THIS ARTICLE. UPON COMPLIANCE BY AN
13 APPLICANT FOR LICENSE RENEWAL WITH THE REQUIREMENTS OF THIS
14 ARTICLE AND PAYMENT OF THE LICENSE RENEWAL FEE, THE DEPARTMENT
15 SHALL ISSUE A RENEWAL LICENSE.

16 PART 83

17 PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY OPERATIONS

18 SEC. 8301. A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY
19 SHALL ESTABLISH LEGAL CONTROL OF ITS PHYSICAL LOCATION. THE
20 PHYSICAL LOCATION SHALL MEET ALL APPLICABLE STATE AND LOCAL
21 ZONING LAWS.

22 SEC. 8303. (1) A PHARMACEUTICAL-GRADE CANNABIS LICENSED
23 FACILITY SHALL NOTIFY THE DEPARTMENT IN WRITING OF THE NAME,
24 ADDRESS, AND DATE OF BIRTH OF AN OFFICER, DIRECTOR, PARTNER,
25 MEMBER, MANAGER, OR EMPLOYEE BEFORE THE INDIVIDUAL IS ASSOCIATED
26 WITH OR BEGINS WORKING AT THE LICENSED FACILITY. THE LICENSED
27 FACILITY SHALL OBTAIN THE INDIVIDUAL'S IDENTIFICATION AND HAVE A

1 CRIMINAL HISTORY CHECK CONDUCTED TO DETERMINE IF THAT INDIVIDUAL
2 IS QUALIFIED TO WORK AT OR BE ASSOCIATED WITH THE LICENSED
3 FACILITY UNDER THIS ARTICLE.

4 (2) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL
5 NOTIFY THE DEPARTMENT IN WRITING WITHIN 10 DAYS AFTER AN OFFICER,
6 DIRECTOR, PARTNER, MEMBER, MANAGER, OR EMPLOYEE CEASES TO WORK AT
7 OR OTHERWISE BE ASSOCIATED WITH THE LICENSED FACILITY.

8 (3) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL
9 NOT ACQUIRE, POSSESS, CULTIVATE, DELIVER, TRANSFER, TRANSPORT,
10 SUPPLY, SELL, OR DISPENSE PHARMACEUTICAL-GRADE CANNABIS FOR ANY
11 PURPOSE EXCEPT AS PROVIDED IN THIS ARTICLE.

12 (4) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL
13 NOT POSSESS MORE THAN THE AMOUNT OF PHARMACEUTICAL-GRADE CANNABIS
14 PLANTS OR DRIED PHARMACEUTICAL-GRADE CANNABIS ALLOWED IN ITS
15 INVENTORY AS PRESCRIBED IN RULES PROMULGATED UNDER THIS ARTICLE.

16 (5) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL
17 DESTROY ALL MARIHUANA THAT IT CULTIVATES OR THAT IS OTHERWISE IN
18 ITS POSSESSION THAT IS DETERMINED NOT TO BE PHARMACEUTICAL-GRADE
19 CANNABIS. A LICENSED FACILITY SHALL KEEP RECORDS OF ITS
20 ACTIVITIES UNDER THIS SUBSECTION IN ORDER TO VERIFY ITS
21 COMPLIANCE TO THE DEPARTMENT.

22 (6) PHARMACEUTICAL-GRADE CANNABIS SHALL MEET THE FOLLOWING
23 STANDARDS:

24	MICROBIOLOGICAL	
25	<u>MICROBIOLOGICAL ANALYSIS</u>	<u>FPL SPECIFICATIONS</u>
26	TOTAL COLIFORMS	<3 MPN/G

1	STD. PLATE COUNT AEROBIC	<100 CFU/G
2	STD. PLATE COUNT ANAEROBIC	<100 CFU/G
3	ESCHERICHIA COLI	ABSENT
4	SALMONELLA	ABSENT
5	STAPHYLOCOCCUS AUREUS	<100 CFU/G
6	YEAST AND MOLDS	<100 CFU/G

7

8

MYCOTOXINS

9	<u>TEST</u>	<u>SPECIFICATION</u>
10	AFLATOXIN B1	<20 µG/KG OF SUBSTANCE
11	AFLATOXIN B2	<20 µG/KG OF SUBSTANCE
12	AFLATOXIN O1	<20 µG/KG OF SUBSTANCE
13	AFLATOXIN O2	<20 µG/KG OF SUBSTANCE
14	OCHRATOXIN A	<20 µG/KG OF SUBSTANCE

15

16

HEAVY METALS

17	<u>METAL</u>	<u>NHP ACCEPTABLE LIMITS</u>
18		<u>µG/KG BW/DAY</u>
19	ARSENIC	<0.14
20	CADMIUM	<0.09
21	LEAD	<0.29
22	MERCURY	<0.29

23 (7) A LICENSED FACILITY SHALL IRRADIATE ALL PHARMACEUTICAL-
 24 GRADE CANNABIS IN THE MANNER DETERMINED BY THE DEPARTMENT BEFORE
 25 DELIVERING THAT PHARMACEUTICAL-GRADE CANNABIS TO ANOTHER PERSON.

26 SEC. 8305. A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY
 27 MAY BE A PROFIT OR NONPROFIT ENTITY.

28 SEC. 8307. A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY
 29 MAY OPERATE ON ANY CALENDAR DAYS OF THE WEEK, BUT SHALL DO ALL OF

1 THE FOLLOWING:

2 (A) PROHIBIT SMOKING OR CONSUMPTION OF MARIHUANA ON ITS
3 PREMISES.

4 (B) MAINTAIN ALL RECORDS REQUIRED UNDER THIS ARTICLE ON ITS
5 PREMISES.

6 (C) MAKE THE LICENSED PREMISES AVAILABLE FOR INSPECTION AND
7 SEARCH BY THE DEPARTMENT, BY LAW ENFORCEMENT OFFICERS, AND BY ANY
8 OTHER STATE, FEDERAL, OR LOCAL GOVERNMENTAL AGENCY AUTHORIZED BY
9 LAW OR DEPARTMENT RULE TO INSPECT THE PREMISES OF THE LICENSED
10 FACILITY UNDER THIS ACT, DURING REGULAR BUSINESS HOURS AND WHEN
11 THE LICENSED PREMISES ARE OCCUPIED BY THE LICENSEE OR A CLERK,
12 SERVANT, AGENT, OR EMPLOYEE OF THE LICENSEE. EVIDENCE OF A
13 VIOLATION OF THIS ACT OR RULES PROMULGATED UNDER THIS ACT
14 DISCOVERED UNDER THIS SUBSECTION MAY BE SEIZED AND USED IN AN
15 ADMINISTRATIVE OR COURT PROCEEDING.

16 SEC. 8309. IN ADDITION TO THE PROVISIONS OF SECTION 2946 OF
17 THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2946, IN
18 A PRODUCT LIABILITY ACTION AGAINST A PHARMACEUTICAL-GRADE
19 CANNABIS LICENSED FACILITY, PHARMACEUTICAL-GRADE CANNABIS IS NOT
20 DEFECTIVE OR UNREASONABLY DANGEROUS, AND THE PHARMACEUTICAL-GRADE
21 CANNABIS LICENSED FACILITY IS NOT LIABLE, IF THE PRODUCT SOLD WAS
22 TESTED AND DETERMINED TO MEET THE STANDARDS FOR PHARMACEUTICAL-
23 GRADE CANNABIS UNDER THIS ARTICLE.

24 PART 84

25 SALE AND DISTRIBUTION OF PHARMACEUTICAL-GRADE CANNABIS

26 SEC. 8401. (1) A PHARMACEUTICAL-GRADE CANNABIS LICENSED
27 FACILITY SHALL NOT SELL OR OTHERWISE DISTRIBUTE PHARMACEUTICAL-

1 GRADE CANNABIS EXCEPT AS PROVIDED IN THIS SECTION.

2 (2) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL
3 NOT SELL OR OTHERWISE DISTRIBUTE PHARMACEUTICAL-GRADE CANNABIS
4 DIRECTLY TO THE PUBLIC.

5 (3) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL
6 SELL PHARMACEUTICAL-GRADE CANNABIS ONLY TO A LICENSED PHARMACIST
7 OR RETAIL PHARMACY TO BE DISPENSED ONLY TO ELIGIBLE PATIENTS AND
8 TO OTHER PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES FOR
9 PURPOSES PROVIDED FOR UNDER THIS ARTICLE. PHARMACEUTICAL-GRADE
10 CANNABIS DISPENSED BY A LICENSED PHARMACIST OR RETAIL PHARMACY
11 SHALL HAVE AFFIXED UPON EACH PACKAGE AND CONTAINER IN WHICH THE
12 CANNABIS IS CONTAINED A LABEL SHOWING IN LEGIBLE ENGLISH THE NAME
13 AND ADDRESS OF THE MANUFACTURER, THE DATE THE PRESCRIPTION IS
14 FILLED, THE DOSAGE, INCLUDING THE TOTAL PERCENTAGE OF THC AND
15 TOTAL PERCENTAGE OF CBD, THE NAME OF THE PATIENT, AND THE NAME
16 AND ADDRESS OF THE DISPENSING PHARMACIST.

17 (4) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY MAY
18 SELL OR OTHERWISE DISTRIBUTE PHARMACEUTICAL-GRADE CANNABIS TO
19 PHARMACIES FOR SALE OR DISTRIBUTION ONLY TO ELIGIBLE PATIENTS AS
20 PROVIDED IN THIS ARTICLE.

21 (5) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL
22 REPORT TO THE DEPARTMENT ON A QUARTERLY BASIS ALL QUANTITIES OF
23 PHARMACEUTICAL-GRADE CANNABIS SOLD TO LICENSED PHARMACISTS,
24 RETAIL PHARMACIES, AND OTHER PHARMACEUTICAL-GRADE CANNABIS
25 LICENSED FACILITIES. THE REPORT SHALL BE IN WRITING AND SHALL
26 INCLUDE THE NAME AND ADDRESS OF EACH PHARMACIST, RETAIL PHARMACY,
27 AND PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY TO WHICH THE

1 PHARMACEUTICAL-GRADE CANNABIS IS SOLD. A REPORT UNDER THIS SUB-
2 SECTION MAY BE TRANSMITTED ELECTRONICALLY, IF THE TRANSMISSION IS
3 ULTIMATELY REDUCED TO WRITING.

4 PART 85

5 ENFORCEMENT

6 SEC. 8501. (1) THE DEPARTMENT SHALL ENFORCE THIS ARTICLE AND
7 THE APPLICABLE PROVISIONS OF ARTICLE 7 AND SHALL CONDUCT ANNUAL
8 INSPECTIONS OF PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES
9 TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE AND
10 ARTICLE 7.

11 (2) UPON A FINDING THAT AN EMERGENCY EXISTS REQUIRING
12 IMMEDIATE ACTION TO PROTECT THE PUBLIC HEALTH, SAFETY, AND
13 WELFARE, THE DEPARTMENT MAY ISSUE AN ORDER TO SUSPEND THE LICENSE
14 OF A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY WITHOUT
15 NOTICE OR HEARING. THE ORDER SHALL RECITE THE EXISTENCE OF THE
16 EMERGENCY AND THE FACTS SUPPORTING A DETERMINATION OF THE NEED TO
17 PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE. NOTWITHSTANDING THIS
18 ACT OR THE ADMINISTRATIVE PROCEDURES ACT OF 1969, THE ORDER SHALL
19 BE EFFECTIVE IMMEDIATELY. A PERSON TO WHOM THE ORDER IS DIRECTED
20 SHALL COMPLY IMMEDIATELY BUT, ON APPLICATION TO THE DEPARTMENT,
21 SHALL BE AFFORDED A HEARING WITHIN 15 DAYS. ON THE BASIS OF THE
22 HEARING, THE ORDER OF SUMMARY SUSPENSION SHALL BE CONTINUED,
23 MODIFIED, OR DISSOLVED NOT LATER THAN 30 DAYS AFTER THE HEARING.

24 SEC. 8503. (1) IN ADDITION TO ANY OTHER PENALTIES PRESCRIBED
25 OR REMEDIES PROVIDED IN THIS ARTICLE, ARTICLE 7, AND ARTICLE 15,
26 THE DEPARTMENT MAY, ON ITS OWN MOTION OR ON RECEIPT OF A
27 COMPLAINT, AND AFTER AN INVESTIGATION AND A HEARING BEFORE AN

1 ADMINISTRATIVE LAW JUDGE AT WHICH THE PHARMACEUTICAL-GRADE
2 CANNABIS LICENSED FACILITY LICENSEE IS AFFORDED AN OPPORTUNITY TO
3 BE HEARD, SUSPEND OR REVOKE A FACILITY LICENSE ISSUED UNDER THIS
4 ARTICLE. THE DEPARTMENT MAY SUSPEND OR REVOKE A LICENSE FOR ANY
5 VIOLATION BY THE LICENSEE, A BOARD MEMBER, AN AGENT, OR AN
6 EMPLOYEE OF THE LICENSED FACILITY OR OF ANY OF THE TERMS,
7 CONDITIONS, OR PROVISIONS OF THE LICENSE ISSUED BY THE
8 DEPARTMENT. THE DEPARTMENT MAY ADMINISTER OATHS AND ISSUE
9 SUBPOENAS TO REQUIRE THE PRESENCE OF PERSONS AND THE PRODUCTION
10 OF PAPERS, BOOKS, AND RECORDS NECESSARY TO THE DETERMINATION OF
11 ANY HEARING THAT THE DEPARTMENT IS AUTHORIZED TO CONDUCT.

12 (2) THE DEPARTMENT SHALL PROVIDE NOTICE OF SUSPENSION OR
13 REVOCATION, AS WELL AS ANY REQUIRED NOTICE OF A HEARING, BY
14 MAILING THE SAME IN WRITING TO THE LICENSED FACILITY AT THE
15 ADDRESS CONTAINED IN THE LICENSE. IF A LICENSE IS SUSPENDED OR
16 REVOKED, NO PART OF THE FEES PAID FOR THE LICENSE UNDER THIS
17 ARTICLE OR UNDER ARTICLE 7 SHALL BE RETURNED TO THE LICENSEE. THE
18 DEPARTMENT MAY SUMMARILY SUSPEND A LICENSE WITHOUT NOTICE PENDING
19 ANY PROSECUTION, INVESTIGATION, OR PUBLIC HEARING. NOTHING IN
20 THIS SECTION SHALL PREVENT THE SUMMARY SUSPENSION OF A LICENSE
21 FOR A TEMPORARY PERIOD OF NOT MORE THAN 15 DAYS.

22 SEC. 8505. IN ANY LICENSING HEARING HELD BY THE DEPARTMENT
23 UNDER THIS ARTICLE, A PERSON SHALL NOT REFUSE, UPON REQUEST OF
24 THE DEPARTMENT, TO TESTIFY OR PROVIDE OTHER INFORMATION ON THE
25 GROUNDS OF SELF-INCRIMINATION. ANY TESTIMONY OR OTHER INFORMATION
26 PRODUCED IN THE HEARING AND ANY INFORMATION DIRECTLY OR
27 INDIRECTLY DERIVED FROM THE TESTIMONY OR OTHER INFORMATION SHALL

1 NOT BE USED AGAINST THE PERSON IN ANY CRIMINAL PROSECUTION BASED
2 ON A VIOLATION OF THIS ARTICLE EXCEPT A PROSECUTION FOR PERJURY
3 COMMITTED WHILE TESTIFYING. CONTINUED REFUSAL TO TESTIFY OR
4 PROVIDE OTHER INFORMATION IS GROUNDS FOR THE SUSPENSION OR
5 REVOCATION OF A LICENSE OR REGISTRATION CARD ISSUED UNDER THIS
6 ARTICLE.

7 SEC. 8507. (1) THE OWNER, OPERATOR, OR AGENT OF A
8 PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY WHO KNOWINGLY
9 VIOLATES THIS ARTICLE OR WHO ESTABLISHES OR OPERATES A
10 PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY IN VIOLATION OF
11 THIS ARTICLE IS GUILTY OF A CRIME AS FOLLOWS:

12 (A) EXCEPT AS PROVIDED IN SUBDIVISIONS (B) AND (C), THE
13 PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR
14 NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$10,000.00, OR
15 BOTH.

16 (B) EXCEPT AS PROVIDED IN SUBDIVISION (C), IF THE PERSON HAS
17 1 PRIOR CONVICTION FOR VIOLATING THIS ARTICLE, THE PERSON IS
18 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE
19 THAN 180 DAYS OR A FINE OF NOT MORE THAN \$50,000.00, OR BOTH.

20 (C) IF THE PERSON HAS 2 OR MORE PRIOR CONVICTIONS FOR
21 VIOLATING THIS ARTICLE, OR INTENTIONALLY VIOLATES THIS ARTICLE,
22 THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT
23 FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$100,000.00,
24 OR BOTH.

25 (2) SUBSECTION (1) DOES NOT PROHIBIT THE PERSON FROM BEING
26 CHARGED WITH, CONVICTED OF, OR SENTENCED FOR ANY OTHER VIOLATION
27 OF LAW COMMITTED BY THE PERSON WHILE VIOLATING THIS SECTION.

1 SEC. 8509. EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE, A
2 PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY THAT HAS BEEN
3 ISSUED A LICENSE UNDER THIS ARTICLE, OR ANY OWNER, OPERATOR,
4 OFFICER, DIRECTOR, PARTNER, MEMBER, MANAGER, OR EMPLOYEE OF THE
5 LICENSED FACILITY, IS NOT SUBJECT TO ARREST, PROSECUTION, OR
6 PENALTY IN ANY MANNER, OR DENIED ANY RIGHT OR PRIVILEGE,
7 INCLUDING, BUT NOT LIMITED TO, CIVIL PENALTY OR DISCIPLINARY
8 ACTION BY A BUSINESS OR OCCUPATIONAL OR PROFESSIONAL LICENSING
9 BOARD OR BUREAU, FOR THE CULTIVATION, DISTRIBUTION, AND SALE OF
10 PHARMACEUTICAL-GRADE CANNABIS UNDER THIS ARTICLE FOR USE BY
11 ELIGIBLE PATIENTS IN THE MANNER PRESCRIBED IN THIS ARTICLE.

12 SEC. 8511. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A
13 LOCAL GOVERNMENTAL UNIT SHALL NOT ENACT OR ENFORCE AN ORDINANCE
14 REGARDING PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES. A
15 LOCAL GOVERNMENTAL UNIT MAY LIMIT THE NUMBER OF PHARMACEUTICAL-
16 GRADE CANNABIS LICENSED FACILITIES THAT MAY OPERATE IN THE LOCAL
17 GOVERNMENTAL UNIT AND MAY ENACT REASONABLE ZONING REGULATIONS
18 APPLICABLE TO PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES
19 BASED ON LOCAL GOVERNMENT ZONING, HEALTH, AND SAFETY LAWS FOR THE
20 CULTIVATION, DISTRIBUTION, AND SALE OF PHARMACEUTICAL-GRADE
21 CANNABIS.

22 Sec. 16169. (1) If an individual employed by or under
23 contract to the department has reasonable cause to believe that a
24 health professional may be impaired, the individual shall
25 transmit the information to the committee either orally or in
26 writing. Upon receipt of the information, the committee shall
27 request the program consultant described in section 16168 to

1 determine whether or not the health professional may be impaired.

2 (2) If, based on the information received by the department
3 under section 16168(2), the department determines that the health
4 professional involved may be a threat to the public health,
5 safety, or welfare and has violated this article, ~~or~~ article 7,
6 **OR ARTICLE 8** or the rules promulgated under this article, ~~or~~
7 article 7, **OR ARTICLE 8**, the department may proceed under
8 sections 16211 and 16231.

9 Sec. 16170a. (1) The identity of an individual submitting
10 information to the committee or the department regarding the
11 suspected impairment of a health professional is confidential.

12 (2) The identity of a health professional who participates
13 in the health professional recovery program is confidential and
14 is not subject to disclosure under discovery or subpoena or the
15 freedom of information act, ~~Act No. 442 of the Public Acts of~~
16 ~~1976, being sections 15.231 to 15.246 of the Michigan Compiled~~
17 ~~Laws, 1976 PA 442, MCL 15.231 TO 15.246~~, unless the health
18 professional fails to satisfactorily participate in and complete
19 a treatment plan prescribed under the health professional
20 recovery program or violates section 16170(3).

21 (3) If a health professional successfully participates in
22 and completes a treatment plan prescribed under the health
23 professional recovery program, as determined by the committee,
24 the department shall destroy all records pertaining to the
25 impairment of the health professional, including records
26 pertaining to the health professional's participation in the
27 treatment plan, upon the expiration of 5 years after the date of

1 the committee's determination. This subsection does not apply to
2 records pertaining to a violation of this article, ~~or~~ article 7,
3 **OR ARTICLE 8** or a rule promulgated under this article, ~~or~~ article
4 7, **OR ARTICLE 8**.

5 Sec. 16174. (1) An individual who is licensed or registered
6 under this article shall meet all of the following requirements:

7 (a) Be 18 or more years of age.

8 (b) Be of good moral character.

9 (c) Have a specific education or experience in the health
10 profession or in a health profession subfield or health
11 profession specialty field of the health profession, or training
12 equivalent, or both, as prescribed by this article or rules of a
13 board necessary to promote safe and competent practice and
14 informed consumer choice.

15 (d) Have a working knowledge of the English language as
16 determined in accordance with minimum standards established for
17 that purpose by the department.

18 (e) Pay the appropriate fees as prescribed in this article.

19 (2) In addition to the requirements of subsection (1), an
20 applicant for licensure, registration, specialty certification,
21 or a health profession specialty subfield license under this
22 article shall meet all of the following requirements:

23 (a) Establish that disciplinary proceedings before a similar
24 licensure, registration, or specialty licensure or specialty
25 certification board of this or any other state, of the United
26 States military, of the federal government, or of another country
27 are not pending against the applicant.

1 (b) Establish that if sanctions have been imposed against
2 the applicant by a similar licensure, registration, or specialty
3 licensure or specialty certification board of this or any other
4 state, of the United States military, of the federal government,
5 or of another country based upon grounds that are substantially
6 similar to those set forth in this article, ~~or~~ article 7, **OR**
7 **ARTICLE 8** or the rules promulgated under this article, ~~or~~ article
8 7, **OR ARTICLE 8**, as determined by the board or task force to
9 which the applicant applies, the sanctions are not in force at
10 the time of application. This subdivision does not apply to an
11 application for licensure that the board may grant under section
12 17011(4) or 17511(2).

13 (c) File with the board or task force a written, signed
14 consent to the release of information regarding a disciplinary
15 investigation involving the applicant conducted by a similar
16 licensure, registration, or specialty licensure or specialty
17 certification board of this or any other state, of the United
18 States military, of the federal government, or of another
19 country.

20 (3) Beginning October 1, 2008, an applicant for initial
21 licensure or registration shall submit his or her fingerprints to
22 the department of state police to have a criminal history check
23 conducted and request that the department of state police forward
24 his or her fingerprints to the federal bureau of investigation
25 for a national criminal history check. The department of state
26 police shall conduct a criminal history check and request the
27 federal bureau of investigation to make a determination of the

1 existence of any national criminal history pertaining to the
2 applicant. The department of state police shall provide the
3 department with a written report of the criminal history check if
4 the criminal history check contains any criminal history record
5 information. The department of state police shall forward the
6 results of the federal bureau of investigation determination to
7 the department within 30 days after the request is made. The
8 department shall notify the board and the applicant in writing of
9 the type of crime disclosed on the federal bureau of
10 investigation determination without disclosing the details of the
11 crime. The department of state police may charge a reasonable fee
12 to cover the cost of conducting the criminal history check. The
13 criminal history record information obtained under this
14 subsection shall be used only for the purpose of evaluating an
15 applicant's qualifications for licensure or registration for
16 which he or she has applied. A member of the board shall not
17 disclose the report or its contents to any person who is not
18 directly involved in evaluating the applicant's qualifications
19 for licensure or registration. Information obtained under this
20 subsection is confidential, is not subject to disclosure under
21 the freedom of information act, 1976 PA 442, MCL 15.231 to
22 15.246, and shall not be disclosed to any person except for
23 purposes of this section or for law enforcement purposes.

24 (4) Before granting a license, registration, specialty
25 certification, or a health profession specialty field license to
26 an applicant, the board or task force to which the applicant
27 applies may do 1 of the following:

1 (a) Make an independent inquiry into the applicant's
2 compliance with the requirements described in subsection (2). If
3 subsection (2)(b) applies to an application for licensure and a
4 licensure or registration board or task force determines under
5 subsection (2)(b) that sanctions have been imposed and are in
6 force at the time of application, the board or task force shall
7 not grant a license or registration or specialty certification or
8 health profession specialty field license to the applicant.

9 (b) Require the applicant to secure from a national
10 association or federation of state professional licensing boards
11 certification of compliance with the requirements described in
12 subsection (2). If an application is for licensure that the board
13 may grant under section 17011(4) or 17511(2), the applicant is
14 not required to secure the certification of compliance with
15 respect to the requirements described in subsection (2)(b).

16 (5) If, after issuing a license, registration, specialty
17 certification, or health profession specialty field license, a
18 board or task force or the department determines that sanctions
19 have been imposed against the licensee or registrant by a similar
20 licensure or registration or specialty licensure or specialty
21 certification board as described in subsection (2)(b), the
22 disciplinary subcommittee may impose appropriate sanctions upon
23 the licensee or registrant. The licensee or registrant may
24 request a show cause hearing before a hearing examiner to
25 demonstrate why the sanctions should not be imposed.

26 (6) An applicant for licensure, registration, specialty
27 certification, or a health profession specialty field license who

1 is or has been licensed, registered, or certified in a health
2 profession or specialty by another state or country shall
3 disclose that fact on the application form.

4 Sec. 16192. (1) A licensee or registrant shall report to the
5 department a change in name or mailing address not later than 30
6 days after the change occurs.

7 (2) The department may serve a notice of hearing or a
8 complaint on an applicant, licensee, or registrant in an action
9 or proceeding for a violation of this article, ~~or~~ article 7, **OR**
10 **ARTICLE 8** or a rule promulgated under this article, ~~or~~ article 7,
11 **OR ARTICLE 8** by regular mail and by certified mail, return
12 receipt requested, to the applicant's, licensee's, or
13 registrant's last known address, by serving the notice on the
14 applicant, licensee, or registrant, or by making a reasonable
15 attempt to serve the notice on the applicant, licensee, or
16 registrant. For purposes of this subsection, if service is by
17 mail, service is effective 3 days after the date of mailing, and
18 nondelivery does not affect the validity of the service if the
19 nondelivery was caused by the refusal of the applicant, licensee,
20 or registrant to accept service.

21 (3) A license or registration is not transferable.

22 Sec. 16216. (1) The chair of each board or task force shall
23 appoint 1 or more disciplinary subcommittees for that board or
24 task force. A disciplinary subcommittee for a board or task force
25 shall consist of 2 public members and 3 professional members from
26 the board or task force. The chair of a board or task force shall
27 not serve as a member of a disciplinary subcommittee.

1 (2) A final decision of the disciplinary subcommittee
2 finding a violation of this article, ~~or~~ **article 7, OR ARTICLE 8**
3 shall be by a majority vote of the members appointed and serving
4 on the disciplinary subcommittee.

5 (3) A final decision of the disciplinary subcommittee
6 imposing a sanction under this article, ~~or~~ **article 7, OR ARTICLE**
7 **8** or a final decision of the disciplinary subcommittee other than
8 a final decision described in subsection (2) requires a majority
9 vote of the members appointed and serving on the disciplinary
10 subcommittee with an affirmative vote by at least 1 public
11 member.

12 (4) The chairperson of each disciplinary subcommittee shall
13 be a public member and shall be appointed by the chair of the
14 board or task force.

15 Sec. 16221. The department may investigate activities
16 related to the practice of a health profession by a licensee, a
17 registrant, or an applicant for licensure or registration. The
18 department may hold hearings, administer oaths, and order the
19 taking of relevant testimony and shall report its findings to the
20 appropriate disciplinary subcommittee. The disciplinary
21 subcommittee shall proceed under section 16226 if it finds that 1
22 or more of the following grounds exist:

23 (a) A violation of general duty, consisting of negligence or
24 failure to exercise due care, including negligent delegation to
25 or supervision of employees or other individuals, whether or not
26 injury results, or any conduct, practice, or condition that
27 impairs, or may impair, the ability to safely and skillfully

1 practice the health profession.

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

4 (i) Incompetence.

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

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

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

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

18 (vi) Lack of good moral character.

19 (vii) Conviction of a criminal offense under section 520e or
20 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and
21 750.520g. A certified copy of the court record is conclusive
22 evidence of the conviction.

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

26 (ix) Conviction of a misdemeanor or felony involving fraud in
27 obtaining or attempting to obtain fees related to the practice of

1 a health profession. A certified copy of the court record is
2 conclusive evidence of the conviction.

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

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

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

17 (xiii) Conviction of a criminal offense under section 520b,
18 520c, 520d, or 520f of the Michigan penal code, 1931 PA 328, MCL
19 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of
20 the court record is conclusive evidence of the conviction.

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

23 (i) Fraud or deceit in obtaining or renewing a license or
24 registration.

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

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

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

6 (d) Unethical business practices, consisting of 1 or more of
7 the following:

8 (i) False or misleading advertising.

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

12 (iii) Fraud or deceit in obtaining or attempting to obtain
13 third party reimbursement.

14 (e) Unprofessional conduct, consisting of 1 or more of the
15 following:

16 (i) Misrepresentation to a consumer or patient or in
17 obtaining or attempting to obtain third party reimbursement in
18 the course of professional practice.

19 (ii) Betrayal of a professional confidence.

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

22 (iv) Either of the following:

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

27 (B) A referral by a physician for a designated health

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

24 (v) For a physician who makes referrals pursuant to 42 USC
25 1395nn or a regulation promulgated under that section, refusing
26 to accept a reasonable proportion of patients eligible for
27 Medicaid and refusing to accept payment from Medicaid or Medicare

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

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

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

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

22 (i) Failure to comply with a subpoena issued pursuant to
23 this part, failure to respond to a complaint issued under this
24 article, ~~or~~ **OR ARTICLE 8**, failure to appear at a
25 compliance conference or an administrative hearing, or failure to
26 report under section 16222 or 16223.

27 (j) Failure to pay an installment of an assessment levied

1 under the insurance code of 1956, 1956 PA 218, MCL 500.100 to
2 500.8302, within 60 days after notice by the appropriate board.

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

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

6 (m) A violation of section 17015, 17015a, 17017, 17515, or
7 17517.

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

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

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

11 (q) A violation of section 16274.

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

13 (s) A violation of the medical records access act, 2004 PA
14 47, MCL 333.26261 to 333.26271.

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

16 Sec. 16222. (1) A licensee or registrant ~~having~~ **WHO HAS**
17 knowledge that another licensee or registrant has committed a
18 violation under section 16221, ~~or~~ **OR ARTICLE 8** or a
19 rule promulgated under article 7 **OR ARTICLE 8** shall report the
20 conduct and the name of the subject of the report to the
21 department. Information obtained by the department under this
22 subsection is confidential and is subject to sections 16238 and
23 16244. Failure of a licensee or registrant to make a report under
24 this subsection does not give rise to a civil cause of action for
25 damages against the licensee or registrant, but the licensee or
26 registrant is subject to administrative action under sections
27 16221 and 16226. This subsection does not apply to a licensee or

1 registrant who obtains the knowledge of a violation while
 2 providing professional services to the licensee or registrant to
 3 whom the knowledge applies, who is serving on a duly constituted
 4 ethics or peer review committee of a professional association, or
 5 who is serving on a committee assigned a professional review
 6 function in a health facility or agency.

7 (2) Unless the licensee or registrant making ~~the~~**A** report
 8 **UNDER SUBSECTION (1)** otherwise agrees in writing, the identity of
 9 the licensee or registrant making the report shall remain
 10 confidential unless disciplinary proceedings under this part are
 11 initiated against the subject of the report and the licensee or
 12 registrant making the report is required to testify in the
 13 proceedings.

14 (3) A licensee or registrant shall notify the department of
 15 a criminal conviction or a disciplinary licensing or registration
 16 action taken by another state against the licensee or registrant
 17 within 30 days after the date of the conviction or action. This
 18 subsection includes, but is not limited to, a disciplinary action
 19 that is stayed pending appeal.

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

24 Violations of Section 16221	Sanctions
25 Subdivision (a), (b) (ii),	Probation, limitation, denial,
26 (b) (iv), (b) (vi), or	suspension, revocation,
27 (b) (vii)	restitution, community service,

1 or fine.
2
3 Subdivision (b) (viii) Revocation or denial.
4
5 Subdivision (b) (i), Limitation, suspension,
6 (b) (iii), (b) (v), revocation, denial,
7 (b) (ix), (b) (x), probation, restitution,
8 (b) (xi), or (b) (xii) community service, or fine.
9
10 Subdivision (b) (xiii) Probation, limitation, denial,
11 suspension, revocation,
12 restitution, community service,
13 fine, or, subject to subsection
14 (5), permanent revocation.
15
16
17 Subdivision (c) (i) Denial, revocation, suspension,
18 probation, limitation, community
19 service, or fine.
20
21 Subdivision (c) (ii) Denial, suspension, revocation,
22 restitution, community service,
23 or fine.
24
25 Subdivision (c) (iii) Probation, denial, suspension,
26 revocation, restitution,
27 community service, or fine.
28
29 Subdivision (c) (iv) Fine, probation, denial,
30 or (d) (iii) suspension, revocation, community
31 service, or restitution.

1
2 Subdivision (d) (i) Reprimand, fine, probation,
3 or (d) (ii) community service, denial,
4 or restitution.
5
6 Subdivision (e) (i) Reprimand, fine, probation,
7 limitation, suspension, community
8 service, denial, or restitution.
9
10 Subdivision (e) (ii) Reprimand, probation,
11 or (i) suspension, restitution,
12 community service, denial, or
13 fine.
14
15 Subdivision (e) (iii), Reprimand, fine, probation,
16 (e) (iv), or (e) (v) suspension, revocation,
17 limitation, community service,
18 denial, or restitution.
19
20 Subdivision (g) Reprimand or fine.
21
22 Subdivision (h) or (s) Reprimand, probation, denial,
23 suspension, revocation,
24 limitation, restitution,
25 community service, or fine.
26
27 Subdivision (j) Suspension or fine.
28
29 Subdivision (k), (p), Reprimand or fine.
30 or (r)
31

1	Subdivision (l)	Reprimand, denial, or
2		limitation.
3		
4	Subdivision (m) or (o)	Denial, revocation, restitution,
5		probation, suspension,
6		limitation, reprimand, or fine.
7		
8	Subdivision (n)	Revocation or denial.
9		
10	Subdivision (q)	Revocation.
11		
12	Subdivision (t)	Revocation, fine, and
13		restitution.

14 (2) Determination of sanctions for violations under this
15 section shall be made by a disciplinary subcommittee. If, during
16 judicial review, the court of appeals determines that a final
17 decision or order of a disciplinary subcommittee prejudices
18 substantial rights of the petitioner for 1 or more of the grounds
19 listed in section 106 of the administrative procedures act of
20 1969, 1969 PA 306, MCL 24.306, and holds that the final decision
21 or order is unlawful and is to be set aside, the court shall
22 state on the record the reasons for the holding and may remand
23 the case to the disciplinary subcommittee for further
24 consideration.

25 (3) A disciplinary subcommittee may impose a fine of up to,
26 but not exceeding, \$250,000.00 for a violation of section
27 16221(a) or (b).

28 (4) A disciplinary subcommittee may require a licensee or

1 registrant or an applicant for licensure or registration who has
2 violated this article, ~~or~~ **article 7, OR ARTICLE 8** or a rule
3 promulgated under this article, ~~or~~ **article 7, OR ARTICLE 8** to
4 satisfactorily complete an educational program, a training
5 program, or a treatment program, a mental, physical, or
6 professional competence examination, or a combination of those
7 programs and examinations.

8 (5) A disciplinary subcommittee shall not impose the
9 sanction of permanent revocation for a violation of section
10 16221(b) (*xiii*) unless the violation occurred while the licensee or
11 registrant was acting within the health profession for which he
12 or she was licensed or registered.

13 Sec. 16231. (1) A person or governmental entity ~~who~~ **THAT**
14 believes that a violation of this article, ~~or~~ **article 7, OR**
15 **ARTICLE 8** or a rule promulgated under this article, ~~or~~ **article 7,**
16 **OR ARTICLE 8** exists may make an allegation of that fact to the
17 department in writing.

18 (2) If, upon reviewing an application or an allegation or a
19 licensee's file under section 16211(4), the department determines
20 there is a reasonable basis to believe the existence of a
21 violation of this article, ~~or~~ **article 7, OR ARTICLE 8** or a rule
22 promulgated under this article, ~~or~~ **article 7, OR ARTICLE 8,** the
23 department, with the authorization of the chair of the
24 appropriate board or task force or his or her designee, shall
25 investigate. If the chair or his or her designee fails to grant
26 or deny authorization within 7 days after receipt of a request
27 for authorization, the department shall investigate.

1 (3) Upon the receipt of information reported pursuant to
2 section 16243(2) that indicates 3 or more malpractice
3 settlements, awards, or judgments against a licensee in a period
4 of 5 consecutive years or 1 or more malpractice settlements,
5 awards, or judgments against a licensee totaling more than
6 \$200,000.00 in a period of 5 consecutive years, whether or not a
7 judgment or award is stayed pending appeal, the department shall
8 investigate.

9 (4) At any time during an investigation or following the
10 issuance of a complaint, the department may schedule a compliance
11 conference ~~pursuant to~~ **UNDER** section 92 of the administrative
12 procedures act of 1969, MCL 24.292. The conference may include
13 the applicant, licensee, registrant, or individual, the
14 applicant's, licensee's, registrant's, or individual's attorney,
15 1 member of the department's staff, and any other individuals
16 approved by the department. One member of the appropriate board
17 or task force who is not a member of the disciplinary
18 subcommittee with jurisdiction over the matter may attend the
19 conference and provide such assistance as needed. At the
20 compliance conference, the department shall attempt to reach
21 agreement. If an agreement is reached, the department shall
22 submit a written statement outlining the terms of the agreement,
23 or a stipulation and final order, if applicable, or a request for
24 dismissal to the appropriate disciplinary subcommittee for
25 approval. If the agreement or stipulation and final order or
26 request for dismissal is rejected by the disciplinary
27 subcommittee, or if no agreement is reached, a hearing before a

1 hearings examiner shall be scheduled. A party shall not make a
2 transcript of the compliance conference. All records and
3 documents of a compliance conference held before a complaint is
4 issued are subject to section 16238.

5 (5) Within 90 days after an investigation is initiated under
6 subsection (2) or (3), the department shall do 1 or more of the
7 following:

8 (a) Issue a formal complaint.

9 (b) Conduct a compliance conference under subsection (4).

10 (c) Issue a summary suspension.

11 (d) Issue a cease and desist order.

12 (e) Dismiss the complaint.

13 (f) Place in the complaint file not more than 1 written
14 extension of not more than 30 days to take action under this
15 subsection.

16 (6) Unless the person submitting the allegation under
17 subsection (1) otherwise agrees in writing, the department shall
18 keep the identity of a person submitting the allegation
19 confidential until disciplinary proceedings under this part are
20 initiated against the subject of the allegation and the person
21 making the allegation is required to testify in the proceedings.

22 (7) The department shall serve a complaint ~~pursuant to~~ **UNDER**
23 section 16192. The department shall include in the complaint a
24 notice that the applicant, licensee, registrant, or individual
25 who is the subject of the complaint has 30 days from the date of
26 receipt to respond in writing to the complaint.

27 (8) The department shall treat the failure of the applicant,

1 licensee, registrant, or individual to respond to the complaint
2 within the 30-day period set forth in subsection (7) as an
3 admission of the allegations contained in the complaint. The
4 department shall notify the appropriate disciplinary subcommittee
5 of the individual's failure to respond and shall forward a copy
6 of the complaint to that disciplinary subcommittee. The
7 disciplinary subcommittee may then impose an appropriate sanction
8 under this article, ~~or~~ article 7, **OR ARTICLE 8**.

9 Sec. 16231a. (1) If an agreement is not reached at a
10 compliance conference held under section 16231(4), or if an
11 agreement is reached but is rejected by a disciplinary
12 subcommittee and the parties do not reach a new agreement, the
13 department shall hold a hearing before a hearings examiner
14 employed by or under contract to the department. If an agreement
15 is reached but is rejected by the disciplinary subcommittee, the
16 department shall not hold another compliance conference, but may
17 continue to try and reach a new agreement. The hearings examiner
18 shall conduct the hearing within 60 days after the compliance
19 conference at which an agreement is not reached or after the
20 agreement is rejected by the disciplinary subcommittee, unless a
21 new agreement is reached and approved by the disciplinary
22 subcommittee. One member of the appropriate board or task force
23 who is not a member of the disciplinary subcommittee with
24 jurisdiction over the matter may attend the hearing and provide
25 such assistance as needed.

26 (2) The hearings examiner shall determine if there are
27 grounds for disciplinary action under section 16221 or if the

1 applicant, licensee, or registrant has violated this article, ~~or~~
2 article 7, **OR ARTICLE 8** or the rules promulgated under this
3 article, ~~or~~ article 7, **OR ARTICLE 8**. The hearings examiner shall
4 prepare recommended findings of fact and conclusions of law for
5 transmittal to the appropriate disciplinary subcommittee. The
6 hearings examiner shall not recommend or impose penalties.

7 (3) The applicant, licensee, or registrant who is the
8 subject of the complaint or the department of attorney general
9 may request and be granted not more than 1 continuance by the
10 hearings examiner for good cause shown.

11 (4) The applicant, licensee, or registrant may be
12 represented at the hearing by legal counsel. The department shall
13 be represented at the hearing by an assistant attorney general
14 from the department of attorney general. The assistant attorney
15 general shall not be the same individual assigned by the
16 department of attorney general to provide legal counsel to the
17 board or the special assistant attorney general described in
18 section 16237.

19 (5) Unless a continuance has been granted under subsection
20 (3), failure of an applicant, licensee, or registrant to appear
21 or be represented at a scheduled hearing shall be treated by the
22 hearings examiner as a default and an admission of the
23 allegations contained in the complaint. The hearings examiner
24 shall notify the appropriate disciplinary subcommittee of the
25 individual's failure to appear and forward a copy of the
26 complaint and any other relevant records to the disciplinary
27 subcommittee. The disciplinary subcommittee may then impose an

1 appropriate sanction under **ANY COMBINATION OF** this article, ~~or~~
2 article 7, or ~~both~~-**ARTICLE 8**.

3 Sec. 16232. (1) The department shall provide an opportunity
4 for a hearing in connection with the denial, reclassification,
5 limitation, reinstatement, suspension, or revocation of a license
6 or a proceeding to reprimand, fine, order community service or
7 restitution, or place a licensee on probation.

8 (2) The department shall provide an opportunity for a
9 hearing in connection with the denial, limitation, suspension,
10 revocation, or reinstatement of a registration or a proceeding to
11 reprimand, fine, order community service or restitution, or place
12 a registrant on probation.

13 (3) A disciplinary subcommittee shall meet within 60 days
14 after receipt of the recommended findings of fact and conclusions
15 of law from a hearings examiner to impose a penalty.

16 (4) Only the department shall promulgate rules governing
17 hearings under this article, ~~or~~-article 7, **ARTICLE 8** and related
18 preliminary proceedings.

19 Sec. 16233. (1) The department may conduct an investigation
20 necessary to administer and enforce this article. Investigations
21 may include written, oral, or practical tests of a licensee's or
22 registrant's competency. The department may establish a special
23 paralegal unit to assist the department.

24 (2) The department may order an individual to cease and
25 desist from a violation of this article, ~~or~~-article 7, **OR ARTICLE**
26 **8** or a rule promulgated under this article, ~~or~~-article 7, **OR**
27 **ARTICLE 8**.

1 (3) An individual ordered to cease and desist under
2 subsection (2) is entitled to a hearing before a hearing
3 examiner if the individual files a written request for a hearing
4 within 30 days after the effective date of the cease and desist
5 order. The department shall subsequently present the notice, if
6 any, of the individual's failure to respond to a complaint, or
7 attend or be represented at a hearing as described in sections
8 16231 and 16231a, or the recommended findings of fact and
9 conclusions of law to the appropriate disciplinary subcommittee
10 to determine whether the order is to remain in effect or be
11 dissolved.

12 (4) Upon a violation of a cease and desist order issued
13 under subsection (2), the department of attorney general may
14 apply in the circuit court to restrain and enjoin, temporarily or
15 permanently, an individual from further violating the cease and
16 desist order.

17 (5) After consultation with the chair of the appropriate
18 board or task force or his or her designee, the department may
19 summarily suspend a license or registration if the public health,
20 safety, or welfare requires emergency action in accordance with
21 section 92 of the administrative procedures act of 1969, MCL
22 24.292. If a licensee or registrant is convicted of a felony; a
23 misdemeanor punishable by imprisonment for a maximum term of 2
24 years; or a misdemeanor involving the illegal delivery,
25 possession, or use of a controlled substance, the department
26 shall find that the public health, safety, or welfare requires
27 emergency action and, in accordance with section 92 of the

1 administrative procedures act of 1969, MCL 24.292, shall
2 summarily suspend the licensee's license or the registrant's
3 registration. If a licensee or registrant is convicted of a
4 misdemeanor involving the illegal delivery, possession, or use of
5 alcohol that adversely affects the licensee's ability to practice
6 in a safe and competent manner, the department may find that the
7 public health, safety, or welfare requires emergency action and,
8 in accordance with section 92 of the administrative procedures
9 act of 1969, MCL 24.292, may summarily suspend the licensee's
10 license or the registrant's registration.

11 Sec. 16237. (1) In imposing a penalty under section
12 16232(3), a disciplinary subcommittee shall review the
13 recommended findings of fact and conclusions of law of the
14 hearings examiner.

15 (2) The department of attorney general may assign an
16 independent special assistant attorney general who is under
17 contract to the department of attorney general and is not a
18 member of the state classified civil service to advise the
19 disciplinary subcommittees on matters of law and provide other
20 legal assistance as necessary. A special assistant attorney
21 general assigned to the disciplinary subcommittees under this
22 subsection shall not be the same individual who represented the
23 department before a hearings examiner under section 16231a(4).

24 (3) In reviewing the recommended findings of fact and
25 conclusions of law of the hearings examiner and the record of the
26 hearing, a disciplinary subcommittee may request the hearings
27 examiner to take additional testimony or evidence on a specific

1 issue or may revise the recommended findings of fact and
2 conclusions of law as determined necessary by the disciplinary
3 subcommittee, or both. A disciplinary subcommittee shall not
4 conduct its own investigation or take its own additional
5 testimony or evidence under this subsection.

6 (4) If a disciplinary subcommittee finds that a
7 preponderance of the evidence supports the recommended findings
8 of fact and conclusions of law of the hearings examiner
9 indicating that grounds exist for disciplinary action, the
10 disciplinary subcommittee shall impose an appropriate sanction
11 under **ANY COMBINATION OF** this article, ~~or~~ article 7, or ~~both~~.
12 **ARTICLE 8.** If the disciplinary subcommittee finds that a
13 preponderance of the evidence does not support the findings of
14 fact and conclusions of law of the hearings examiner indicating
15 that grounds exist for disciplinary action, the disciplinary
16 subcommittee shall dismiss the complaint. A disciplinary
17 subcommittee shall report final action taken by it in writing to
18 the appropriate board or task force.

19 (5) The compliance conference, the hearing before the
20 hearings examiner, and final disciplinary subcommittee action
21 shall be completed within 1 year after the department initiates
22 an investigation under section 16231(2) or (3). The department
23 shall note in its annual report any exceptions to the 1-year
24 requirement.

25 (6) A final decision of a disciplinary subcommittee rendered
26 after the effective date of the amendatory act that added this
27 section but before January 1, 1995 may be appealed only in the

1 manner provided in sections 103 to 106 of the administrative
2 procedures act of 1969, ~~being sections 24.303 to 24.306 of the~~
3 ~~Michigan Compiled Laws. 1969 PA 306, MCL 24.301 TO 24.306.~~ A
4 final decision of a disciplinary subcommittee rendered on or
5 after January 1, 1995 may be appealed only to the court of
6 appeals. An appeal filed under this subsection is by right.

7 Sec. 16241. (1) After administrative disciplinary action is
8 final, the department ~~of commerce~~ shall publish a list of the
9 names and addresses of disciplined individuals. The department of
10 commerce shall indicate on the list that a final administrative
11 disciplinary action is subject to judicial review. The department
12 ~~of commerce~~ shall report disciplinary action to the department of
13 public health, the ~~commissioner~~ **DIRECTOR** of **THE DEPARTMENT OF**
14 **insurance AND FINANCIAL SERVICES**, the state and federal agencies
15 responsible for fiscal administration of federal health care
16 programs, and the appropriate professional association.

17 (2) Once each calendar year, the department ~~of commerce~~
18 shall transmit to the library of Michigan sufficient copies of a
19 compilation of the lists required under subsection (1) for the
20 immediately preceding 3 calendar years. The library of Michigan
21 shall distribute the compilation to each depository library in
22 ~~the~~ **THIS** state. The department ~~of commerce~~ also shall **ALSO**
23 transmit the compilation to each county clerk in ~~the~~ **THIS** state
24 once each calendar year.

25 (3) The department of ~~public~~ **COMMUNITY** health shall report
26 the disciplinary actions to appropriate licensed health
27 facilities and agencies. The ~~commissioner~~ **DIRECTOR OF THE**

1 **DEPARTMENT** of insurance **AND FINANCIAL SERVICES** shall report the
2 disciplinary actions received from the department ~~of commerce~~ to
3 insurance carriers providing professional liability insurance.

4 (4) In case of a summary suspension of a license under
5 section 16233(5), the department ~~of commerce~~ shall report the
6 name and address of the individual whose license has been
7 suspended to the department of ~~public~~ **COMMUNITY** health, the
8 ~~commissioner~~ **DIRECTOR OF THE DEPARTMENT** of insurance **AND**
9 **FINANCIAL SERVICES**, the state and federal agencies responsible
10 for fiscal administration of federal health care programs, and
11 the appropriate professional association.

12 (5) A licensee or registrant whose license or registration
13 is revoked or suspended under this article shall give notice of
14 the revocation or suspension to each patient who contacts the
15 licensee or registrant for professional services during the term
16 of the revocation or suspension. The notice required under this
17 subsection may be given orally and shall be given at the time of
18 contact.

19 (6) A licensee or registrant whose license or registration
20 is revoked or is suspended for more than 60 days under this
21 article shall notify in writing each patient or client to whom
22 the licensee or registrant rendered professional services in the
23 licensee's or registrant's private practice during the 120 days
24 immediately preceding the date of the final order imposing the
25 revocation or suspension and to each individual who is already
26 scheduled for professional services during the first 120 days
27 after the date of the final order imposing the revocation or

1 suspension. The notice shall be on a form provided by the
2 licensee's or registrant's board or task force and shall state,
3 at a minimum, the name, address, and license or registration
4 number of the licensee or registrant, the fact that his or her
5 license or registration has been revoked or suspended, the
6 effective date of the revocation or suspension, and the term of
7 the revocation or suspension. Each board or task force shall
8 develop a notice form that meets at least the minimum
9 requirements of this subsection. The licensee or registrant shall
10 send the notice to each patient or client to whom the licensee or
11 registrant rendered professional services in the licensee's or
12 registrant's private practice during the 120 days immediately
13 preceding the date of the final order imposing the revocation or
14 suspension within 30 days after the date of the final order
15 imposing the revocation or suspension and shall simultaneously
16 transmit a copy of the notice to the department. The licensee or
17 registrant orally shall notify each individual who contacts the
18 licensee or registrant for professional services during the first
19 120 days after the date of the final order imposing the
20 revocation or suspension. The licensee or registrant shall also
21 provide a copy of the notice within 10 days after the date of the
22 final order imposing the revocation or suspension to his or her
23 employer, if any, and to each hospital, if any, in which the
24 licensee or registrant is admitted to practice.

25 (7) A licensee or registrant who is reprimanded, fined,
26 placed on probation, or ordered to pay restitution under this
27 article or an applicant whose application for licensure or

1 registration is denied under this article shall notify his or her
2 employer, if any, and each hospital, if any, in which he or she
3 is admitted to practice, in the same manner as provided for
4 notice of revocation or suspension to an employer or hospital
5 under subsection (6), within 10 days after the date of the final
6 order imposing the sanction.

7 (8) The department ~~of commerce~~ **SHALL** annually ~~shall~~ report
8 to the legislature and to each board and task force on
9 disciplinary actions taken under this article, ~~and article 7,~~ **AND**
10 **ARTICLE 8.** The report shall contain, at a minimum, all of the
11 following information:

12 (a) Investigations conducted, complaints issued, and
13 settlements reached by the department, ~~of commerce,~~ separated out
14 by type of complaint and health profession.

15 (b) Investigations and complaints closed or dismissed.

16 (c) Actions taken by each disciplinary subcommittee,
17 separated out by type of complaint, health profession, and final
18 order issued.

19 (d) Recommendations by boards and task forces.

20 (e) The number of extensions and delays granted by the
21 department that were in excess of the time limits required under
22 this article for each phase of the disciplinary process, and the
23 types of cases for which the extensions and delays were granted.

24 ~~— (9) Within 2 years after the effective date of the~~
25 ~~amendatory act that added this subsection, the department of~~
26 ~~commerce shall submit a public report to the legislature on the~~
27 ~~effectiveness of the amendatory act that added this subsection.~~

~~1 The report shall include a review and evaluation of the
2 disciplinary process and the reporting requirements of this
3 article and article 17 and recommended administrative or
4 statutory changes, if any.~~

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

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

15 (3) A board or task force shall reinstate a license or
16 registration suspended for grounds stated in section 16221(j)
17 upon payment of the installment.

18 (4) Except as otherwise provided in this subsection, in case
19 of a revoked license or registration, an applicant shall not
20 apply for reinstatement before the expiration of 3 years after
21 the effective date of the revocation. In the case of a license or
22 registration that was revoked for a violation of section
23 16221(b) (vii) or (xiii), a violation of section 16221(c) (iv)
24 consisting of a felony conviction, any other felony conviction
25 involving a controlled substance, or a violation of section
26 16221(q), an applicant shall not apply for reinstatement before
27 the expiration of 5 years after the effective date of the

1 revocation. In the case of a license or registration that was
2 permanently revoked for a violation of section 16221(b) (xiii), the
3 former licensee or registrant is ineligible for reinstatement.
4 The department shall return an application for reinstatement
5 received before the expiration of the applicable time period
6 under this subsection or if the applicant is ineligible for
7 reinstatement under this subsection.

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

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

22 (7) An individual who seeks reinstatement or
23 reclassification of a license or registration pursuant to this
24 section shall pay the application processing fee as a
25 reinstatement or reclassification fee. If approved for
26 reinstatement or reclassification, the individual shall pay the
27 per year license or registration fee for the applicable license

1 or registration period.

2 (8) An individual who seeks reinstatement of a revoked or
3 suspended license or reclassification of a limited license
4 ~~pursuant to~~ **UNDER** this section shall have a criminal history
5 check conducted in accordance with section 16174 and submit a
6 copy of the results of the criminal history check to the board
7 with his or her application for reinstatement or
8 reclassification.

9 Sec. 16315. (1) The health professions regulatory fund is
10 established in the state treasury. Except as otherwise provided
11 in this section, the state treasurer shall credit the fees
12 collected under sections 16319 to 16349 to the health professions
13 regulatory fund. The money in the health professions regulatory
14 fund shall be expended only as provided in subsection (5).

15 (2) The state treasurer shall direct the investment of the
16 health professions regulatory fund. Interest and earnings from
17 health professions regulatory fund investment shall be credited
18 to the health professions regulatory fund.

19 (3) The unencumbered balance in the health professions
20 regulatory fund at the close of the fiscal year shall remain in
21 the health professions regulatory fund and shall not revert to
22 the general fund.

23 (4) The health professions regulatory fund may receive gifts
24 and devises and other money as provided by law.

25 (5) The department ~~of community health~~ shall use the health
26 professions regulatory fund to carry out its powers and duties
27 under this article, ~~and~~ article 7, **AND ARTICLE 8**, including, but

1 not limited to, reimbursing the department of attorney general
2 for the reasonable cost of services provided to the department of
3 ~~community health~~ under this article, ~~and~~ article 7, **AND ARTICLE**
4 **8.** ~~For the fiscal year ending September 30, 2007 only, subject to~~
5 ~~appropriations by the legislature and approval by the governor,~~
6 ~~the department of community health may also use the health~~
7 ~~professions regulatory fund to support health information~~
8 ~~technology initiatives.~~

9 (6) The nurse professional fund is established in the state
10 treasury. Of the money that is attributable to per-year license
11 fees collected under section 16327, the state treasurer shall
12 credit \$8.00 of each individual annual license fee collected to
13 the nurse professional fund. The money in the nurse professional
14 fund shall be expended only as provided in subsection (9).

15 (7) The state treasurer shall direct the investment of the
16 nurse professional fund, and shall credit interest and earnings
17 from the investment to the nurse professional fund. The nurse
18 professional fund may receive gifts and devises and other money
19 as provided by law.

20 (8) The unencumbered balance in the nurse professional fund
21 at the close of the fiscal year shall remain in the nurse
22 professional fund and shall not revert to the general fund.

23 (9) The department of community health shall use the nurse
24 professional fund each fiscal year only as follows:

25 (a) To promote safe patient care in all nursing practice
26 environments.

27 (b) To advance the safe practice of the nursing profession.

1 (c) To assure a continuous supply of high-quality direct
2 care nurses, nursing faculty, and nursing education programs.

3 (d) To operate a nursing scholarship program.

4 (10) The pain management education and controlled substances
5 electronic monitoring and antidiversion fund is established in
6 the state treasury.

7 (11) The state treasurer shall direct the investment of the
8 pain management education and controlled substances electronic
9 monitoring and antidiversion fund. Interest and earnings from
10 investment of the pain management education and controlled
11 substances electronic monitoring and antidiversion fund shall be
12 credited to the pain management education and controlled
13 substances electronic monitoring and antidiversion fund.

14 (12) The unencumbered balance in the pain management
15 education and controlled substances electronic monitoring and
16 antidiversion fund at the close of the fiscal year shall remain
17 in the pain management education and controlled substances
18 electronic monitoring and antidiversion fund and shall not revert
19 to the general fund. The pain management education and controlled
20 substances electronic monitoring and antidiversion fund may
21 receive gifts and devises and other money as provided by law.
22 Twenty dollars of the license fee received by the department of
23 ~~community health~~ under section 16319 shall be deposited with the
24 state treasurer to the credit of the pain management education
25 and controlled substances electronic monitoring and antidiversion
26 fund. The department shall use the pain management education and
27 controlled substances electronic monitoring and antidiversion

1 fund only in connection with programs relating to pain management
2 education for health professionals, preventing the diversion of
3 controlled substances, and development and maintenance of the
4 electronic monitoring system for controlled substances data
5 required by section 7333a.

6 Sec. 17754. (1) Except as otherwise provided under article
7 7, **ARTICLE 8**, and the federal act, a prescription may be
8 transmitted electronically ~~as long as~~ **IF** the prescription is
9 transmitted in compliance with the health insurance portability
10 and accountability act of 1996, Public Law 104-191, or
11 regulations promulgated under that act, 45 CFR parts 160 and 164,
12 by a prescriber or his or her agent and the data are not altered
13 or modified in the transmission process. The electronically
14 transmitted prescription shall include all of the following
15 information:

16 (a) The name, address, and telephone number of the
17 prescriber.

18 (b) The full name of the patient for whom the prescription
19 is issued.

20 (c) An electronic signature or other identifier that
21 specifically identifies and authenticates the prescriber or his
22 or her agent.

23 (d) The time and date of the transmission.

24 (e) The identity of the pharmacy intended to receive the
25 transmission.

26 (f) Any other information required by the federal act or
27 state law.

1 (2) The electronic equipment or system utilized in the
2 transmission and communication of prescriptions shall provide
3 adequate confidentiality safeguards and be maintained to protect
4 patient confidentiality as required under any applicable federal
5 and state law and to ensure against unauthorized access. The
6 electronic transmission of a prescription shall be communicated
7 in a retrievable, recognizable form acceptable to the intended
8 recipient. The electronic form utilized in the transmission of a
9 prescription shall not include "dispense as written" or "d.a.w."
10 as the default setting.

11 (3) ~~Prior to~~ **BEFORE** dispensing a prescription that is
12 electronically transmitted, the pharmacist shall exercise
13 professional judgment regarding the accuracy, validity, and
14 authenticity of the transmitted prescription.

15 (4) An electronically transmitted prescription that meets
16 the requirements of this section is the original prescription.

17 Sec. 17768. (1) In a manner consistent with part 161, the
18 disciplinary subcommittee may fine, reprimand, or place on
19 probation, a person licensed under this part, or deny, limit,
20 suspend, or revoke a person's license or order restitution or
21 community service for a violation of this part or rules
22 promulgated under this part.

23 (2) In addition to the grounds set forth in subsection (1),
24 and in a manner consistent with part 161, the board may fine,
25 reprimand, or place on probation a person licensed under this
26 part, or deny, limit, suspend, or revoke a license issued under
27 this part or order restitution or community service if the board

1 finds that any of the following categories apply to an applicant
2 or a partner, officer, or member of the board of directors of a
3 pharmacy, manufacturer, or wholesale distributor licensed under
4 this part or a stockholder of a pharmacy, manufacturer, or
5 wholesale distributor which is a privately held corporation
6 licensed under this part:

7 (a) The applicant or other person described in this
8 subsection lacks good moral character.

9 (b) Subject to subsection (3), the applicant or other person
10 described in this subsection has been convicted of a misdemeanor
11 or a felony under a state or federal law relating to a controlled
12 substance or the practice of pharmacy.

13 (c) The applicant or other person described in this
14 subsection has furnished false or fraudulent material information
15 or has knowingly omitted material information in an application
16 filed under this part.

17 (d) The applicant or other person described in this
18 subsection has previously maintained a financial interest in a
19 pharmacy, manufacturer, or wholesale distributor which has been
20 denied a license or federal registration, has had its license or
21 federal registration limited, suspended, or revoked, or been
22 subject to any other criminal, civil, or administrative penalty.

23 (e) The applicant or other person described in this
24 subsection is not in compliance with article 7 **OR ARTICLE 8** or
25 the rules promulgated under article 7 **OR ARTICLE 8**.

26 (3) Except for a conviction for a misdemeanor under section
27 ~~7404(2)(d)~~ **7404(2)(D)** or a local ordinance that is substantially

1 similar to section ~~7404 (2) (d)~~, **7404 (2) (D)**, the reference to a
2 misdemeanor in subsection (2) (b) applies only to a conviction for
3 a misdemeanor that is directly related to the manufacture,
4 delivery, possession, possession with intent to manufacture or
5 deliver, use, distribution, prescription, or dispensing of a
6 controlled substance. Subsection (2) (b) does not apply to a
7 conviction for a misdemeanor based upon an unintentional error or
8 omission involving a clerical or record-keeping function.

9 Sec. 17775. (1) This section and section 17776 shall be
10 known and may be referred to as the "program for utilization of
11 unused prescription drugs".

12 (2) As used in this section and section 17776:

13 (a) "Board" means the Michigan board of pharmacy created
14 under section 17721.

15 (b) "Cancer drug" means that term as defined in section
16 17780.

17 (c) "Charitable clinic" means a charitable nonprofit
18 corporation or facility that meets all of the following
19 requirements:

20 (i) Is organized as a not-for-profit corporation pursuant to
21 the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
22 450.3192.

23 (ii) Holds a valid exemption from federal income taxation
24 issued pursuant to ~~UNDER~~ section 501(a) of the internal revenue
25 code **OF 1986**, 26 USC 501.

26 (iii) Is listed as an exempt organization under section 501(c)
27 of the internal revenue code **OF 1986**, 26 USC 501.

1 (iv) Is organized under or operated as a part of a health
2 facility or agency licensed under article 17.

3 (v) Provides on an outpatient basis for a period of less
4 than 24 consecutive hours to persons not residing or confined at
5 the facility advice, counseling, diagnosis, treatment, surgery,
6 care, or services relating to the preservation or maintenance of
7 health.

8 (vi) Has a licensed pharmacy.

9 (d) "Eligible facility" means a medical institution as that
10 term is defined in R 338.486 of the Michigan administrative code.

11 (e) "Eligible participant" means an individual who meets all
12 of the following requirements:

13 (i) Is a resident of this state.

14 (ii) Is eligible to receive medicaid or medicare or has no
15 health insurance and otherwise lacks reasonable means to purchase
16 prescription drugs, as prescribed in rules promulgated under this
17 section.

18 (f) "Health professional" means any of the following
19 individuals licensed and authorized to prescribe and dispense
20 drugs or to provide medical, dental, or other health-related
21 diagnoses, care, or treatment within the scope of his or her
22 professional license:

23 (i) A physician licensed to practice medicine or osteopathic
24 medicine and surgery under part 170 or 175.

25 (ii) A physician's assistant licensed under part 170, 175, or
26 180.

27 (iii) A dentist licensed under part 166.

1 (iv) An optometrist licensed under part 174.

2 (v) A pharmacist licensed under this part.

3 (vi) A podiatrist licensed under part 180.

4 (g) "Program" means the statewide unused prescription drug
5 repository and distribution program known as the program for
6 utilization of unused prescription drugs that is established
7 under this section.

8 (3) The board shall establish, implement, and administer a
9 statewide unused prescription drug repository and distribution
10 program consistent with public health and safety through which
11 unused or donated prescription drugs, other than controlled
12 substances, may be transferred from an eligible facility or
13 manufacturer to a pharmacy or a charitable clinic that elects to
14 participate in the program. The program is created to dispense
15 unused or donated prescription drugs, other than controlled
16 substances, to eligible participants and to provide for the
17 destruction and disposal of prescription drugs or other
18 medications that are ineligible for dispensing under the program.

19 (4) Participation in the program by an eligible facility,
20 manufacturer, pharmacy, or charitable clinic is voluntary.
21 Nothing in this section or section 17776 requires any eligible
22 facility, manufacturer, pharmacy, or charitable clinic to
23 participate in the program.

24 (5) Pharmacies, health professionals, and charitable clinics
25 that participate in the program shall use the following criteria
26 in accepting unused or donated prescription drugs from eligible
27 facilities or manufacturers for use in the program:

1 (a) Only prescription drugs in their original sealed,
2 tamper-evident, and unopened unit dose packaging may be accepted
3 for dispensing. However, prescription drugs packaged in single-
4 unit dose packaging may be accepted for dispensing even if the
5 outside packaging is open as long as the single-unit dose
6 packaging is unopened.

7 (b) The following shall not be accepted for dispensing:

8 (i) Expired prescription drugs.

9 (ii) Controlled substances as defined in article 7 **OR ARTICLE**
10 **8** or by federal law.

11 (iii) Drugs that have been held outside of a health
12 professional's control where sanitation and security cannot be
13 assured.

14 (iv) Drugs that can only be dispensed to a patient registered
15 with the drug's manufacturer under federal food and drug
16 administration requirements.

17 (c) A prescription drug shall not be accepted for dispensing
18 if the person accepting the drug has reason to believe that the
19 drug is adulterated.

20 (d) Subject to the limitations prescribed in this
21 subsection, unused or donated prescription drugs dispensed for
22 purposes of a medical assistance program or drug product donation
23 program may be accepted for dispensing under the program.

24 (e) Any additional criteria established in rules promulgated
25 under this section.

26 (6) A pharmacy or charitable clinic that meets the
27 eligibility requirements for participation in the program and any

1 rules promulgated under this section may do any of the following:

2 (a) Dispense prescription drugs accepted under the program
3 to eligible participants.

4 (b) If established by rule under this section, charge
5 eligible participants who receive prescription drugs under the
6 program a handling fee for the service.

7 (7) A pharmacy or charitable clinic that participates in the
8 program and accepts prescription drugs for the program shall do
9 all of the following:

10 (a) Comply with all applicable federal laws and regulations
11 and state laws and rules related to the storage and distribution
12 of harmful drugs.

13 (b) Inspect all accepted prescription drugs before
14 dispensing the prescription drugs to determine that the drugs are
15 not adulterated.

16 (c) Dispense prescription drugs only pursuant to a
17 prescription issued by a health professional.

18 (8) A pharmacy, health professional, or charitable clinic
19 that accepts prescription drugs under the program shall not
20 resell the prescription drugs. Receipt of a fee from an eligible
21 participant, if established in rules promulgated under this
22 section, or reimbursement from a governmental agency to a
23 charitable clinic does not constitute resale of prescription
24 drugs under this subsection.

25 (9) For purposes of the lawful donation, acceptance, or
26 dispensing of prescription drugs under the program, the following
27 persons that are in compliance with the program, this section and

1 section 17776, and any rules promulgated under this section and
2 in the absence of bad faith or gross negligence are not subject
3 to criminal or civil liability for injury other than death, or
4 loss to person or property, or professional disciplinary action:

5 (a) The board.

6 (b) The department.

7 (c) An eligible facility or manufacturer that donates
8 prescription drugs to the program.

9 (d) A manufacturer or its representative that directly
10 donates prescription drugs in professional samples to a
11 charitable clinic under the program.

12 (e) A pharmacy, charitable clinic, or health professional
13 that accepts or dispenses prescription drugs for the program.

14 (f) A pharmacy or charitable clinic that employs a health
15 professional who accepts prescription drugs for the program and
16 who may legally dispense prescription drugs under this part.

17 (10) A manufacturer is not, in the absence of bad faith,
18 subject to criminal prosecution or liability in tort or other
19 civil action for injury, death, or loss to person or property for
20 matters related to the donation, acceptance, or dispensing of a
21 prescription drug manufactured by the manufacturer that is
22 donated by any person under the program, including, but not
23 limited to, liability for failure to transfer or communicate
24 product or consumer information or the expiration date of the
25 donated prescription drug.

26 (11) Subject to subsection (12), the department, in
27 consultation with the board, shall promulgate rules under the

1 administrative procedures act of 1969 and establish procedures
2 necessary to establish, implement, and administer the program.
3 The board shall provide technical assistance to eligible
4 facilities, manufacturers, pharmacies, and charitable clinics
5 that participate in the program.

6 (12) The department, in consultation with the board, shall
7 promulgate emergency rules under the administrative procedures
8 act of 1969 on or before ~~the expiration of 6 months after the~~
9 ~~effective date of this section~~ **SEPTEMBER 28, 2013** to establish,
10 implement, and administer the program. The department, in
11 consultation with the board, shall promulgate permanent rules
12 ~~pursuant to~~ **UNDER** the administrative procedures act of 1969 as
13 soon as practical after emergency rules have been promulgated
14 under this subsection. The department and the board shall include
15 all of the following in rules promulgated under this section:

16 (a) Eligibility criteria for pharmacies and charitable
17 clinics authorized to accept and dispense prescription drugs for
18 the program.

19 (b) Eligibility criteria for eligible participants.

20 (c) ~~Establishment of a~~ **A** list of prescription drugs that are
21 not eligible for acceptance and dispensing under the program.

22 (d) Standards and procedures for transfer, transportation,
23 acceptance, safe storage, security, and dispensing of
24 prescription drugs.

25 (e) A process for seeking input from the department of human
26 services and the department of community health in establishing
27 provisions that affect eligible facilities.

1 (f) A process for seeking input from the department of human
2 services and the department of community health in establishing
3 provisions that affect mental health and substance abuse clients.

4 (g) Standards and procedures for inspecting accepted
5 prescription drugs to ensure that the prescription drugs meet the
6 requirements of the program and to ensure that, in the
7 professional judgment of the pharmacist, the prescription drugs
8 meet all federal and state standards for product integrity.

9 (h) Procedures for the destruction and environmentally sound
10 disposal of prescription drugs or other medications that are
11 accepted and that are ineligible for dispensing under the
12 program.

13 (i) Procedures for verifying whether the charitable clinic,
14 pharmacy, pharmacist, or other health professionals participating
15 in the program are licensed and in good standing with the
16 applicable licensing board.

17 (j) ~~Establishment of standards~~ **STANDARDS** for acceptance of
18 unused or donated prescription drugs from eligible facilities.

19 (k) ~~Establishment of standards~~ **STANDARDS** for the acceptance
20 by a pharmacy, health professional, or charitable clinic that
21 participates in the program from any person of a prescription
22 drug or any other medication that is ineligible for dispensing
23 under the program for destruction and disposal.

24 (l) Any other standards and procedures the department, in
25 consultation with the board, considers appropriate or necessary
26 to establish, implement, and administer the program.

27 (13) Pursuant to the rules promulgated and standards and

1 procedures established for the program under this section, a
2 resident of an eligible facility or the representative or
3 guardian of a resident of an eligible facility may donate unused
4 prescription drugs for dispensing to eligible participants under
5 the program.

6 (14) Pursuant to rules promulgated and standards and
7 procedures established for the program under this section, a
8 person may deliver to a pharmacy, health professional, or
9 charitable clinic that participates in the program a prescription
10 drug or any other medication that is ineligible for dispensing
11 under the program for destruction and disposal.

12 (15) This section and section 17776 do not impair or
13 supersede the provisions regarding the cancer drug repository
14 program established in section 17780. If any provision of this
15 section or section 17776 conflicts with a provision of section
16 17780 with regard to a cancer drug, section 17780 controls.

17 Sec. 20176a. (1) A health facility or agency shall not
18 discharge or discipline, threaten to discharge or discipline, or
19 otherwise discriminate against an employee regarding the
20 employee's compensation, terms, conditions, location, or
21 privileges of employment because the employee or an individual
22 acting on behalf of the employee does either or both of the
23 following:

24 (a) In good faith reports or intends to report, verbally or
25 in writing, the malpractice of a health professional or a
26 violation of this article, article 7, **ARTICLE 8**, or article 15 or
27 a rule promulgated under this article, article 7, **ARTICLE 8**, or

1 article 15.

2 (b) Acts as an expert witness in a civil action involving
3 medical malpractice or in an administrative action.

4 (2) In addition to the sanctions set forth in section 20165,
5 a health facility or agency that violates subsection (1) is
6 subject to an administrative fine of not more than \$10,000.00 for
7 each violation.

8 Enacting section 1. Sections 7335 and 7336 of the public
9 health code, 1978 PA 368, MCL 333.7335 and 333.7336, are
10 repealed.