

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 660

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 1104, 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 333.1104, 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 1104 as
amended by 1996 PA 307, 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. 1104. (1) "Acknowledgment of parentage" means an
2 acknowledgment executed as provided in the acknowledgment of
3 parentage act, **1996 PA 305, MCL 722.1001 TO 722.1013.**

4 (2) "Administrative procedures act of 1969" means ~~Act No.~~
5 ~~306 of the Public Acts of 1969, being sections 24.201 to 24.328~~
6 ~~of the Michigan Compiled Laws,~~ **THE ADMINISTRATIVE PROCEDURES ACT**
7 **OF 1969, 1969 PA 306, MCL 24.201 TO 24.328,** or a successor act.

8 (3) "Adult" means an individual 18 years of age or older.

9 (4) "Code" means ~~the public health code.~~ **THIS ACT.**

10 (5) "Department", except as provided in ~~article~~ **ARTICLES 8**
11 **AND 15,** means the state department of community health.

12 (6) "Director", except as provided in ~~article~~ **ARTICLES 8 AND**
13 **15,** means the state director of community health.

14 (7) "Governmental entity" means a government, governmental
15 subdivision or agency, or public corporation.

16 Sec. 7212. (1) The following controlled substances are

1 included in schedule 1:

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

7 Acetylmethadol	Difenoxin	Noracymethadol
8 Allylprodine	Dimenoxadol	Norlevorphanol
9 Alpha-acetylmethadol	Dimepheptanol	Normethadone
10 Alphameprodine	Dimethylthiambutene	Norpipanone
11 Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
12 Benzethidine	Dipipanone	Phenampramide
13 Betacetylmethadol	Ethylmethylthiambutene	Phenomorphane
14 Betameprodine	Etonitazene	Phenoperidine
15 Betamethadol	Etoxeridine	Piritramide
16 Betaprodine	Furethidine	Proheptazine
17 Clonitazene	Hydroxypethidine	Properidine
18 Dextromoramide	Ketobemidone	Propiram
19 Diampramide	Levomoramide	Racemoramide
20 Diethylthiambutene	Levophenacymorphan	Trimeperidine
21	Morpheridine	

22 (b) Any of the following opium derivatives, their salts,
 23 isomers, and salts of isomers, unless specifically excepted, when
 24 the existence of these salts, isomers, and salts of isomers is
 25 possible within the specific chemical designation:

26 Acetorphine	Drotebanol	Morphine-N-Oxide
27 Acetyldihydrocodeine	Etorphine	Myrophine

1	Benzylmorphine	Heroin	Nicocodeine
2	Codeine methylbromide	Hydromorphenol	Nicomorphine
3	Codeine-N-Oxide	Methyldesorphine	Normorphine
4	Cyprenorphine	Methyldihydromorphine	Pholcodine
5	Desomorphine	Morphine methylbromide	Thebacon
6	Dihydromorphine	Morphine methylsulfonate	

7 (c) Any material, compound, mixture, or preparation which
8 contains any quantity of the following hallucinogenic substances,
9 their salts, isomers, and salts of isomers, unless specifically
10 excepted, when the existence of these salts, isomers, and salts
11 of isomers is possible within the specific chemical designation:

12 2-Methylamino-1-phenylpropan-1-one

13 Some trade and other names:

14 Methcathinone

15 Cat

16 Ephedrone

17 3, 4-methylenedioxy amphetamine

18 5-methoxy-3, 4-methylenedioxy

19 amphetamine

20 3, 4, 5-trimethoxy amphetamine

21 Bufotenine

22 Some trade and other names:

23 3-(B-dimethylaminoethyl)-5 hydroxyindole

24 3-(2-dimethylaminoethyl)-5 indolol

25 N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine

26 Mappine

27 2, 5-Dimethoxyamphetamine

28 Some trade or other names:

29 2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA

- 1 4-Bromo-2, 5-Dimethoxyamphetamine
2 Some trade or other names:
3 4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo
4 2,5-DMA
5 Diethyltryptamine
6 Some trade and other names:
7 N,N-Diethyltryptamine; DET
8 Dimethyltryptamine
9 Some trade or other names:
10 DMT
11 4-methyl-2, 5-dimethoxyamphetamine
12 Some trade and other names:
13 4-methyl-2, 5-dimethoxy-a-methyl-phenethylamine
14 DOM, STP
15 4-methoxyamphetamine
16 Some trade or other names:
17 4-methoxy-a-methylphenethylamine; paramethoxy amphetamine;
18 PMA
19 Ibogaine
20 Some trade and other names:
21 7-Ethyl-6,6a,7,8,9,10,12,13
22 Octahydro-2-methoxy-6,9-methano-5H-
23 pyrido (1, 2:1, 2 azepino 4, 5-b) indole
24 tabernanthe iboga
25 Lysergic acid diethylamide
26 **EXCEPT AS PROVIDED IN SUBSECTION (2), Marihuana, INCLUDING**
27 **PHARMACEUTICAL-GRADE CANNABIS**
28 Mecloqualone
29 Mescaline
30 Peyote
31 N-ethyl-3 piperidyl benzilate

- 1 N-methyl-3 piperidyl benzilate
- 2 Psilocybin
- 3 Psilocyn
- 4 Thiophene analog of phencyclidine
- 5 Some trade or other names:
- 6 1-(1-(2-thienyl)cyclohexyl) piperidine}
- 7 2-thienyl analog of phencyclidine; TCP

8 (d) Synthetic equivalents of the substances contained in the
9 plant, or in the resinous extractives of cannabis and synthetic
10 substances, derivatives, and their isomers with similar chemical
11 structure or pharmacological activity, or both, such as the
12 following, are included in schedule 1:

13 (i) Δ^1 cis or trans tetrahydrocannabinol, and their optical
14 isomers.

15 (ii) Δ^6 cis or trans tetrahydrocannabinol, and their optical
16 isomers.

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

19 (e) Compounds of structures of substances referred to in
20 subdivision (d), regardless of numerical designation of atomic
21 positions, are included.

22 (f) Gamma-hydroxybutyrate and any isomer, salt, or salt of
23 isomer of gamma-hydroxybutyrate.

- 24 Some trade and other names:
- 25 Sodium oxybate
 - 26 4-hydroxybutanoic acid monosodium salt

1 (g) 3,4-methylenedioxymethamphetamine.

2 Some trade and other names:

3 Ecstasy

4 MDMA

5 (h) N-Benzylpiperazine

6 Some trade and other names:

7 BZP

8 Benzylpiperazine

9 1-(phenylmethyl)-piperazine

10 (i) 3-Chlorophenylpiperazine

11 Some trade and other names:

12 MCPP

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

14 Some trade and other names:

15 TFMPP

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

17 Some trade and other names:

18 2C-B-BZP

19 (l) All of the following:

20 (i) (6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-

21 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol.

1 Some trade and other names:

2 HU-210

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

5 Some trade and other names:

6 CP47,497

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

8 Some trade and other names:

9 JWH-018

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

11 Some trade and other names:

12 JWH-073

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

15 Some trade and other names:

16 JWH-015

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

19 Some trade and other names:

20 JWH-200

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

3 Some trade and other names:

4 JWH-250

5 (m) Mephedrone (4-methylmethcathinone).

6 Some trade and other names:

7 4-MMC, M-Cat, meow meow, miaow miaow, bounce, bubbles, bubble
8 love, mad cow, plant food, drone, and neo doves

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

10 Some trade and other names:

11 MPBP

12 (o) Methylenedioxyprovalerone

13 Some trade and other names:

14 MDPV, Bath salts, charge plus, cloud nine, hurricane Charlie,
15 ivory wave, ocean, red dove, scarface, sonic, white dove, white
16 lightning

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

18 Some trade and other names:

19 MDAI

20 Woof-woof

21 (q) Naphyrone (Naphthylpyrovalerone)

1 Some trade and other names:

2 NRG-1

3 Rave

4 (r) Pyrovalerone (1-(4-Methylphenyl)-2-(1-pyrrolidinyl)-1-
5 pentanone)

6 (s) *Catha edulis*; except as provided in subdivision (t) and
7 section 7218, all parts of the plant presently classified
8 botanically as *catha edulis*, whether growing or not; the leaves
9 and seeds of that plant; any extract from any part of that plant;
10 and every compound, salt, derivative, mixture, or preparation of
11 that plant or its leaves, seeds, or extracts.

12 Some trade and other names:

13 Khat

14 Qat

15 (t) Cathinone.

16 (u) *Salvia divinorum*; except as provided in subdivision (v),
17 all parts of the plant presently classified botanically as *salvia*
18 *divinorum*, whether growing or not; the leaves and seeds of that
19 plant; any extract from any part of that plant; and every
20 compound, salt, derivative, mixture, or preparation of that plant
21 or its leaves, seeds, or extracts.

22 (v) Salvinorin A.

23 **(2) MARIHUANA, INCLUDING PHARMACEUTICAL-GRADE CANNABIS, IS A**
24 **SCHEDULE 2 CONTROLLED SUBSTANCE IF IT IS MANUFACTURED, OBTAINED,**

1 STORED, DISPENSED, POSSESSED, GROWN, OR DISPOSED OF IN COMPLIANCE
 2 WITH THIS ACT AND AS AUTHORIZED BY FEDERAL AUTHORITY.

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

5 Sec. 7214. The following controlled substances are included
 6 in schedule 2:

7 (a) Any of the following substances, except those narcotic
 8 drugs listed in other schedules, whether produced directly or
 9 indirectly by extraction from substances of vegetable origin, or
 10 independently by means of chemical synthesis, or by combination
 11 of extraction and chemical synthesis:

12 (i) Opium and opiate, and any salt, compound, derivative, or
 13 preparation of opium or opiate excluding nalaxone and its salts,
 14 and excluding naltrexone and its salts, but including the
 15 following:

16	Raw opium	Etorphine hydrochloride
17	Opium extracts	Hydrocodone
18	Opium Fluid-extracts	Hydromorphone
19	Powdered opium	Metopon
20	Granulated opium	Morphine
21	Tincture of opium	Oxycodone
22	Codeine	Oxymorphone
23	Ethylmorphine	Thebaine

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

1 (iii) Opium poppy, poppy straw, and concentrate of poppy
 2 straw, the crude extract of poppy straw in either liquid, solid,
 3 or powder form, which contains the phenanthrene alkaloids of the
 4 opium poppy.

5 (iv) Coca leaves and any salt, compound, derivative, or
 6 preparation thereof which is chemically equivalent to or
 7 identical with any of these substances, except that the
 8 substances do not include decocainized coca leaves or extraction
 9 of coca leaves which extractions do not contain cocaine or
 10 ecgonine. The substances include cocaine, its salts,
 11 stereoisomers, and salts of stereoisomers when the existence of
 12 the salts, stereoisomers, and salts of stereoisomers is possible
 13 within the specific chemical designation.

14 (b) Any of the following opiates, including their isomers,
 15 esters, ethers, salts, and salts of isomers, when the existence
 16 of these isomers, esters, ethers, and salts is possible within
 17 the specific chemical designation:

18	Alphaprodine	Fentanyl
19	Anileridine	Isomethadone
20	Bezitramide	Levomethorphan
21	Dihydrocodeine	Levorphanol
22	Diphenoxylate	Metazocine
23		
24	Methadone	
25	Methadone-Intermediate, 4-cyano-2dimethylamino-4, 4-diphenyl butane	
26	Moramide-Intermediate, 2-methyl-3-morpholino-1,	
27	1-diphenylpropane-carboxylic acid	

1

2

Pethidine

3 Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine

4 Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate

5 Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-

6 carboxylic acid

7

8

Phenazocine

Racemethorphan

9

Piminodine

Racemorphan

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

14 (i) Amphetamine, its salts, optical isomers, and salts of its
 15 optical isomers.

16 (ii) Any substance which contains any quantity of
 17 methamphetamine, including its salts, stereoisomers, and salts of
 18 stereoisomers.

19 (iii) Phenmetrazine and its salts.

20 (iv) Methylphenidate and its salts.

21 (d) Any material, compound, mixture, or preparation,
 22 including its salts, isomers, and salts of isomers when the
 23 existence of the salts, isomers, and salts of isomers is possible
 24 within the specific chemical designation as listed in schedule 2,
 25 which contains any quantity of the following substances having a
 26 potential for abuse associated with the depressant effect on the
 27 central nervous system: methaqualone, amobarbital, pentobarbital,

1 or secobarbital; or, any compound, mixture, or preparation
2 containing amobarbital, secobarbital, pentobarbital, or any salt
3 thereof in combination with itself, with another, or with 1 or
4 more other controlled substances.

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

10 Sec. 7301a. Licensing activities conducted under this part
11 are subject to sections 16201, 16203, 16299, 16303, 16305, 16307,
12 16309, and 16313 **AND ARTICLE 8.**

13 Sec. 7303. (1) A person who manufactures, distributes,
14 prescribes, or dispenses a controlled substance in this state or
15 who proposes to engage in the manufacture, distribution,
16 prescribing, or dispensing of a controlled substance in this
17 state shall obtain a license issued by the administrator in
18 accordance with the rules. A person who has been issued a
19 controlled substances license by the administrator under this
20 article and a license under article 15 shall renew the controlled
21 substances license concurrently with the renewal of the license
22 issued under article 15, and for an equal number of years.

23 (2) A person licensed by the administrator under this
24 article to manufacture, distribute, prescribe, dispense, or
25 conduct research with controlled substances may possess,
26 manufacture, distribute, prescribe, dispense, or conduct research
27 with those substances to the extent authorized by its license and

1 in conformity with the other provisions of this article.

2 (3) A LICENSE ISSUED UNDER THIS ARTICLE TO MANUFACTURE,
3 DISTRIBUTE, PRESCRIBE, OR DISPENSE PHARMACEUTICAL-GRADE CANNABIS
4 AND THE CONDUCT OF THE LICENSEE IS SUBJECT TO THE ADDITIONAL
5 REQUIREMENTS OF ARTICLE 8.

6 (4) ~~(3)~~—The following persons need not be licensed and may
7 lawfully possess controlled substances or prescription forms
8 under this article:

9 (a) An agent or employee of a licensed manufacturer,
10 distributor, prescriber, or dispenser of a controlled substance
11 if acting in the usual course of the agent's or employee's
12 business or employment.

13 (b) A common or contract carrier or warehouseman, or an
14 employee thereof, whose possession of a controlled substance or
15 prescription form is in the usual course of business or
16 employment.

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

20 (5) ~~(4)~~—The administrator may waive or include by rule the
21 requirement for licensure of certain manufacturers, distributors,
22 prescribers, or dispensers, if it finds the waiver or inclusion
23 is consistent with the public health and safety.

24 (6) ~~(5)~~—A separate license is required at each principal
25 place of business or professional practice where the applicant
26 manufactures, distributes, prescribes, or dispenses controlled
27 substances.

1 (7) ~~(6)~~—As a requisite for licensure, the administrator may
 2 inspect the establishment of a licensee or applicant for
 3 licensure in accordance with the administrator's rule.

4 (8) ~~(7)~~—A person licensed under this article to distribute
 5 controlled substances shall report to the administrator on a
 6 quarterly basis all schedule 2 controlled substances and those
 7 controlled substances designated by the administrator pursuant to
 8 this subsection ~~which~~ **THAT** are sold to licensed practitioners and
 9 retail pharmacies. The report shall be in writing and shall
 10 include the name of each licensed practitioner and retail
 11 pharmacy to whom the controlled substance was distributed. A
 12 report under this subsection may be transmitted electronically,
 13 if the transmission is ultimately reduced to writing. The
 14 administrator shall designate by rule the controlled substances
 15 in schedules 3 to 5 to be reported under this subsection.

16 **ARTICLE 8**

17 **PHARMACEUTICAL-GRADE CANNABIS**

18 **PART 81**

19 **GENERAL PROVISIONS**

20 **SEC. 8101. (1) FOR PURPOSES OF THIS ARTICLE, THE WORDS AND**
 21 **PHRASES DEFINED IN SECTIONS 8103 TO 8107 HAVE THE MEANINGS**
 22 **ASCRIBED TO THEM IN THOSE SECTIONS.**

23 **(2) IN ADDITION, ARTICLE 1 CONTAINS GENERAL DEFINITIONS AND**
 24 **PRINCIPLES OF CONSTRUCTION APPLICABLE TO ALL ARTICLES IN THIS**
 25 **ACT.**

26 **SEC. 8103. (1) "APPLICANT" MEANS THE PERSON SUBMITTING AN**
 27 **APPLICATION FOR A NEW LICENSE OR LICENSE RENEWAL UNDER PART 82**

1 AND INCLUDES EACH INDIVIDUAL IDENTIFIED IN THE APPLICATION AS AN
2 OWNER, OPERATOR, OFFICER, DIRECTOR, PARTNER, MEMBER, OR MANAGER
3 OF THE APPLICANT.

4 (2) "CBD" AND "CBD ACID" MEAN CANNABIDIOL AND CANNABIDIOL
5 ACID.

6 (3) "DEPARTMENT" MEANS THE DEPARTMENT OF LICENSING AND
7 REGULATORY AFFAIRS.

8 (4) "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

9 (5) "ELIGIBLE PATIENT" MEANS AN INDIVIDUAL WHO MEETS THE
10 REQUIREMENTS OF PART 84 AND HAS BEEN ISSUED AN ENHANCED
11 PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARD.

12 (6) "ENHANCED PHARMACEUTICAL-GRADE CANNABIS REGISTRATION
13 CARD" OR "REGISTRATION CARD" MEANS THE REGISTRATION CARD ISSUED
14 TO AN ELIGIBLE PATIENT UNDER PART 84.

15 (7) "GOOD MORAL CHARACTER" MEANS THAT TERM AS DEFINED IN
16 SECTION 1 OF 1974 PA 381, MCL 338.41.

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

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

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

26 (4) "PHARMACEUTICAL-GRADE CANNABIS" MEANS A GRADE OF
27 CANNABIS THAT IS CULTIVATED FOR THE PURPOSES OF THIS ARTICLE;

1 THAT IS FREE OF CHEMICAL RESIDUES SUCH AS FUNGICIDES AND
2 INSECTICIDES AND IS TESTED BY VALIDATED METHODS TO DETERMINE ITS
3 CANNABINOID LEVELS, SPECIFICALLY, THC AND THC ACID LEVELS AND CBD
4 AND CBD ACID LEVELS AND COMPLIES WITH THE STANDARDS SET FORTH IN
5 SECTION 8303(6) FOR ITS MICROBIAL, MYCOTOXIN, AND METAL CONTENTS,
6 INCLUDING HEAVY METALS; AND THAT MEETS ANY OTHER NECESSARY
7 REQUIREMENTS TO BE CONSIDERED IN COMPLIANCE WITH GOOD
8 MANUFACTURING PRACTICES AS PRESCRIBED IN RULES PROMULGATED BY THE
9 DEPARTMENT UNDER THIS ARTICLE.

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

12 (6) "PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY" OR
13 "LICENSED FACILITY" MEANS ANY SECURE ENTITY, OPERATION, OR
14 FACILITY AT OR THROUGH WHICH PHARMACEUTICAL-GRADE CANNABIS IS
15 MANUFACTURED, CULTIVATED, AND TESTED IN THIS STATE FOR LAWFUL
16 MEDICAL USE AS PROVIDED FOR IN THIS ARTICLE AND THE MICHIGAN
17 MEDICAL MARIHUANA ACT. PHARMACEUTICAL-GRADE CANNABIS LICENSED
18 FACILITY DOES NOT INCLUDE A QUALIFYING PATIENT OR PRIMARY
19 CAREGIVER WHO POSSESSES OR CULTIVATES MARIHUANA IN THE MANNER
20 PRESCRIBED IN THE MICHIGAN MEDICAL MARIHUANA ACT OR AN ELIGIBLE
21 PATIENT WHO POSSESSES PHARMACEUTICAL-GRADE CANNABIS IN THE MANNER
22 PRESCRIBED IN THIS ARTICLE.

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

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

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

5 (2) A LICENSE ISSUED UNDER ARTICLE 7 TO MANUFACTURE,
6 DISTRIBUTE, PRESCRIBE, OR DISPENSE PHARMACEUTICAL-GRADE CANNABIS
7 AND THE CONDUCT OF A PERSON LICENSED TO MANUFACTURE, DISTRIBUTE,
8 PRESCRIBE, OR DISPENSE PHARMACEUTICAL-GRADE CANNABIS UNDER THAT
9 LICENSE IS SUBJECT TO THE ADDITIONAL REQUIREMENTS OF THIS
10 ARTICLE.

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

13 SEC. 8111. (1) BEGINNING ON THE EFFECTIVE DATE OF THIS
14 ARTICLE, THE DIRECTOR MAY CHARGE A REASONABLE FEE FOR LICENSING,
15 REGISTRATION, INSPECTION, TESTING, INVESTIGATION, OR OTHER
16 ACTIVITY OR SERVICE PROVIDED BY THE DEPARTMENT UNDER THIS
17 ARTICLE. THE FEE AUTHORIZED UNDER THIS SUBSECTION IS IN ADDITION
18 TO ANY FEE AUTHORIZED UNDER ARTICLE 7. ALL FEES PERMITTED UNDER
19 THIS SECTION SHALL BE DELIVERED TO THE STATE TREASURER ON A
20 MONTHLY BASIS FOR DEPOSIT IN THE PHARMACEUTICAL-GRADE CANNABIS
21 FUND.

22 (2) BEFORE COLLECTING A FEE UNDER THIS ARTICLE, THE
23 DEPARTMENT SHALL DEVELOP AND PUBLISH A COMPREHENSIVE SCHEDULE OF
24 FEES. THE SCHEDULE SHALL INCLUDE A DESCRIPTION OF EACH ACTIVITY
25 OR SERVICE AND THE MAXIMUM FEE CHARGED FOR THAT ACTIVITY OR
26 SERVICE. THE DEPARTMENT SHALL INCLUDE A STATEMENT OF THE RATIONALE
27 USED IN DETERMINING THE FEES CONTAINED IN THE SCHEDULE. THE

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1 DEPARTMENT SHALL REVISE THE FEE SCHEDULE FROM TIME TO TIME SO
2 THAT THE AMOUNT OF FEES COLLECTED UNDER THIS ARTICLE DOES NOT
3 EXCEED THE AMOUNT NECESSARY TO FUND THE DUTIES OF THE DEPARTMENT
4 UNDER THIS ARTICLE.

5 SEC. 8113. (1) THE PHARMACEUTICAL-GRADE CANNABIS FUND IS
6 CREATED WITHIN THE STATE TREASURY. IN ADDITION TO THE FEES
7 DESCRIBED IN SECTION 8111, THE STATE TREASURER MAY RECEIVE MONEY
8 OR OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE
9 STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND. THE
10 STATE TREASURER SHALL CREDIT TO THE FUND INTEREST AND EARNINGS
11 FROM FUND INVESTMENTS. MONEY IN THE FUND AT THE CLOSE OF THE
12 FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE
13 GENERAL FUND.

14 (2) THE DEPARTMENT IS THE ADMINISTRATOR OF THE FUND FOR
15 AUDITING PURPOSES AND THE DEPARTMENT SHALL EXPEND MONEY FROM THE
16 FUND, UPON APPROPRIATION, ONLY FOR THE DIRECT AND INDIRECT COSTS
17 ASSOCIATED WITH IMPLEMENTING, ADMINISTERING, AND ENFORCING THIS
18 ARTICLE.

19 SEC. 8115. [(1) SUBJECT TO SUBSECTION (2), THE] DEPARTMENT SHALL
20 PROMULGATE RULES NECESSARY
21 TO CARRY OUT THIS ARTICLE. THE RULES SHALL ADDRESS, BUT ARE NOT
22 REQUIRED TO BE LIMITED TO ADDRESSING, ALL OF THE FOLLOWING
23 SUBJECTS:

24 (A) IF NOT SPECIFICALLY PROVIDED FOR IN THIS ARTICLE,
25 ACTIVITIES NECESSARY FOR THE COMPLIANCE WITH OR ENFORCEMENT OF OR
26 ACTIVITIES THAT CONSTITUTE A VIOLATION OF THIS ARTICLE,
27 INCLUDING, BUT NOT LIMITED TO, PROCEDURES AND GROUNDS FOR
DENYING, SUSPENDING, OR REVOKING A LICENSE OR REGISTRATION CARD

1 UNDER THIS ARTICLE.

2 (B) INSTRUCTIONS FOR ACCESS BY LOCAL HEALTH DEPARTMENTS AND
3 LAW ENFORCEMENT OFFICERS.

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

6 (D) ACTIVITIES THAT CONSTITUTE OR RESULT IN
7 MISREPRESENTATION OR UNFAIR, DECEPTIVE PRACTICES.

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

10 (F) REGULATING THE MANUFACTURING, INVENTORY, STORAGE,
11 DISPOSAL, AND SALE OF PHARMACEUTICAL-GRADE CANNABIS AND
12 SPECIFYING LEGITIMATE SOURCES FOR OBTAINING SEED TO CULTIVATE
13 PHARMACEUTICAL-GRADE CANNABIS.

14 (G) THE QUARTERLY REPORTING BY LICENSED FACILITIES OF THEIR
15 INVENTORY, WHICH SHALL INCLUDE THE NUMBER OF PLANTS UNDER
16 CULTIVATION, THE AMOUNT OF DRIED PLANT MATERIAL, THE AMOUNT OF
17 DESTROYED PLANTS, AND ALL SALES.

18 (H) COMPLIANCE WITH FEDERAL REGULATORY REQUIREMENTS.

19 (I) HEALTH AND SANITARY REQUIREMENTS FOR LICENSED
20 FACILITIES.

21 (J) RECORD KEEPING, RECORD RETENTION, RECORD STORAGE, AND
22 RECORD SECURITY REQUIREMENTS FOR PHARMACEUTICAL-GRADE CANNABIS
23 LICENSED FACILITIES.

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

27 (L) PHYSICAL SECURITY REQUIREMENTS FOR PHARMACEUTICAL-GRADE

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1 CANNABIS THAT AT A MINIMUM INCLUDE LIGHTING AND ALARMS.

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

4 (N) AUTHORIZATION FOR THE DEPARTMENT OF TREASURY TO HAVE
5 ACCESS TO LICENSING INFORMATION TO ENSURE SALES AND INCOME TAX
6 PAYMENTS FOR LICENSED FACILITIES.

7 (O) ACTIVITIES THAT CONSTITUTE LAWFUL AND UNLAWFUL FINANCIAL
8 ARRANGEMENTS BETWEEN LICENSED FACILITIES.

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

12 (Q) OTHER MATTERS NECESSARY FOR THE FAIR, IMPARTIAL,
13 STRINGENT, AND COMPREHENSIVE IMPLEMENTATION, ADMINISTRATION, AND
14 ENFORCEMENT OF THIS ARTICLE TO PROTECT THE HEALTH, SAFETY, AND
15 WELFARE OF THE RESIDENTS OF THIS STATE.

[(2) THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS MAY BEGIN
PROMULGATION OF THE RULES REQUIRED UNDER THIS ARTICLE AT THE TIME
MARIHUANA, INCLUDING PHARMACEUTICAL-GRADE CANNABIS, IS RESCHEDULED BY
FEDERAL AUTHORITY. HOWEVER, IMPLEMENTATION AND ENFORCEMENT OF THIS
ARTICLE SHALL NOT OCCUR SOONER THAN 180 DAYS AFTER THAT FEDERAL AUTHORITY
RESCHEDULES MARIHUANA.]

16 SEC. 8117. THE DEPARTMENT SHALL ESTABLISH A PHARMACEUTICAL-
17 GRADE CANNABIS LICENSED FACILITY REGISTRY. THE REGISTRY SHALL BE
18 AN ONLINE DATABASE THAT CONTAINS INFORMATION REGARDING THE
19 PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITIES LICENSED UNDER
20 PART 82. INFORMATION IN THE DATABASE SHALL BE MADE AVAILABLE TO
21 THE PUBLIC.

22 SEC. 8119. BY JANUARY 31 OF EACH CALENDAR YEAR, THE
23 DEPARTMENT SHALL SUBMIT TO THE LEGISLATURE AN ANNUAL REPORT FOR
24 THE PREVIOUS CALENDAR YEAR THAT CONTAINS ALL OF THE FOLLOWING
25 INFORMATION:

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

27 (B) ALL COSTS RELATED TO PERFORMING THE DUTIES OF THE

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1 DEPARTMENT UNDER THIS ARTICLE.

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

4 (D) ANY OTHER INFORMATION THE DEPARTMENT CONSIDERS
5 APPROPRIATE UNDER THIS ARTICLE.

6 PART 81A

7 PRESCRIBING AND DISPENSING PHARMACEUTICAL-GRADE CANNABIS

8 SEC. 8151. A PHYSICIAN WHO DETERMINES THAT HIS OR HER
9 PATIENT IS LIKELY TO RECEIVE THERAPEUTIC OR PALLIATIVE BENEFIT
10 FROM THE USE OF PHARMACEUTICAL-GRADE CANNABIS TO TREAT OR
11 ALLEVIATE THE PATIENT'S DEBILITATING MEDICAL CONDITION OR
12 SYMPTOMS OF THE PATIENT'S DEBILITATING MEDICAL CONDITION MAY
13 RECOMMEND THE ISSUANCE OF AN ENHANCED PHARMACEUTICAL-GRADE
14 CANNABIS REGISTRATION CARD TO THAT PATIENT AS AN ELIGIBLE
15 PATIENT.

16 SEC. 8152. (1) THE DEPARTMENT MAY ISSUE AN ENHANCED
17 PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARD TO AN ELIGIBLE
18 PATIENT WHO IS [18 YEARS OF AGE OR OLDER, WHO IS] RECOMMENDED BY A
19 PHYSICIAN TO OBTAIN A
20 REGISTRATION CARD[,] AND WHO PROPERLY APPLIES FOR THAT CARD. [THE
21 DEPARTMENT MAY ISSUE AN ENHANCED PHARMACEUTICAL-GRADE CANNABIS CARD TO AN
22 ELIGIBLE PATIENT WHO IS LESS THAN 18 YEARS OF AGE, WHO IS RECOMMENDED BY
23 2 PHYSICIANS TO OBTAIN A REGISTRATION CARD, AND WHO PROPERLY APPLIES FOR
24 THAT CARD OR IF HIS OR HER PARENT OR GUARDIAN PROPERLY APPLIES FOR THAT
25 CARD ON HIS OR HER BEHALF.] BEFORE
26 ISSUING A CARD TO AN ELIGIBLE PATIENT UNDER THIS SECTION, THE
27 DEPARTMENT SHALL DETERMINE WHETHER THE INDIVIDUAL HAS PREVIOUSLY
BEEN CONVICTED OF A FELONY VIOLATION FOR ILLEGALLY MANUFACTURING,
CREATING, DISTRIBUTING, POSSESSING, OR USING A CONTROLLED
SUBSTANCE OR CONSPIRING OR ATTEMPTING TO MANUFACTURE, CREATE,
DISTRIBUTE, POSSESS, OR USE A CONTROLLED SUBSTANCE IN THIS STATE
OR ELSEWHERE. IF THE INDIVIDUAL HAS PREVIOUSLY BEEN CONVICTED OF
A FELONY VIOLATION FOR ILLEGALLY MANUFACTURING, CREATING,

1 DISTRIBUTE, POSSESSING, OR USING A CONTROLLED SUBSTANCE OR
2 CONSPIRING OR ATTEMPTING TO MANUFACTURE, CREATE, DISTRIBUTE,
3 POSSESS, OR USE A CONTROLLED SUBSTANCE IN THIS STATE OR
4 ELSEWHERE, THE DEPARTMENT SHALL NOT ISSUE A REGISTRATION CARD TO
5 THAT INDIVIDUAL.

6 (2) IF AN INDIVIDUAL HAS A REGISTRY IDENTIFICATION CARD AS
7 DEFINED IN SECTION 3 OF THE MICHIGAN MEDICAL MARIHUANA ACT, 2008
8 IL 1, MCL 333.26423, THE DEPARTMENT SHALL REQUIRE THE INDIVIDUAL
9 TO SURRENDER THAT CARD BEFORE ISSUING THE INDIVIDUAL AN ENHANCED
10 PHARMACEUTICAL-GRADE CANNABIS REGISTRATION CARD UNDER THIS
11 SECTION.

12 SEC. 8153. (1) THE DEPARTMENT SHALL ENSURE THAT THE
13 FOLLOWING INFORMATION FOR EACH PHARMACEUTICAL-GRADE CANNABIS
14 REGISTRATION CARD IS ENTERED INTO THE LAW ENFORCEMENT INFORMATION
15 NETWORK:

16 (A) THE CARD REGISTRATION NUMBER.

17 (B) THE NAME AND ADDRESS OF THE INDIVIDUAL TO WHOM THE CARD
18 IS ISSUED.

19 (C) THE DATE THE CARD WAS ISSUED AND THE EXPIRATION DATE.

20 (D) THE NAME AND ADDRESS OF THE PHYSICIAN WHO AUTHORIZED
21 ISSUANCE OF THE CARD.

22 (2) SUBSECTION (1) DOES NOT AUTHORIZE THE DEPARTMENT TO
23 ENTER ANY INFORMATION INTO THE LAW ENFORCEMENT INFORMATION
24 NETWORK REGARDING THE DIAGNOSIS SUPPORTING ISSUANCE OF THE CARD
25 OR ANY MEDICAL INFORMATION REGARDING THE INDIVIDUAL TO WHOM THE
26 CARD HAS BEEN ISSUED.

27 SEC. 8154. (1) EACH PRESCRIPTION FOR PHARMACEUTICAL-GRADE

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1 CANNABIS SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION:

2 (A) THE DATE THE PRESCRIPTION IS WRITTEN.

3 (B) THE DATE THE PRESCRIPTION IS FILLED.

4 (C) THE DOSAGE AND INSTRUCTIONS FOR USE, WHICH SHALL INCLUDE
5 THE PERCENTAGE OF TOTAL THC AND THE PERCENTAGE OF TOTAL CBD. A
6 PRESCRIPTION FOR PHARMACEUTICAL-GRADE CANNABIS SHALL NOT ALLOW
7 THE INDIVIDUAL TO WHOM THE PRESCRIPTION IS ISSUED TO OBTAIN MORE
8 THAN 2.5 OUNCES OF PHARMACEUTICAL-GRADE CANNABIS. PHARMACEUTICAL-
9 GRADE CANNABIS MUST BE KEPT ONLY IN THE ORIGINAL PACKAGING OR
10 CONTAINER PROVIDED BY THE MANUFACTURER OR BY THE DISPENSING
11 PHARMACY.

12 (D) THE NAME, ADDRESS, AND FEDERAL DRUG ENFORCEMENT
13 ADMINISTRATION NUMBER OF THE DISPENSING PHARMACY AND THE INITIALS
14 OF THE PHARMACIST WHO FILLS THE PRESCRIPTION.

15 (E) THE NAME, ADDRESS, AND DATE OF BIRTH OF THE ELIGIBLE
16 PATIENT FOR WHOM THE PHARMACEUTICAL-GRADE CANNABIS IS PRESCRIBED. [
17

18]

19 (F) THE PRODUCT BRAND NAME, IF A BRAND NAME IS SPECIFIED BY
20 THE PRESCRIBER.

21 (2) THE DEPARTMENT SHALL REQUIRE THE USE OF THE ELECTRONIC
22 SYSTEM ESTABLISHED UNDER SECTION 7333A FOR MONITORING
23 PHARMACEUTICAL-GRADE CANNABIS DISPENSED UNDER THIS SECTION AS A
24 SCHEDULE 2 CONTROLLED SUBSTANCE.

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

1 (A) EMPLOYEES AND AGENTS OF THE DEPARTMENT AUTHORIZED BY THE
2 DIRECTOR OF THE DEPARTMENT.

3 (B) EMPLOYEES OF STATE, COUNTY, AND OTHER LOCAL LAW
4 ENFORCEMENT ENTITIES AUTHORIZED BY THE ADMINISTRATOR AS DEFINED
5 IN ARTICLE 7 FOR THE PURPOSE OF COOPERATING AND ASSISTING A
6 GOVERNMENTAL AGENCY THAT IS RESPONSIBLE FOR THE ENFORCEMENT OF
7 LAWS RELATING TO CONTROLLED SUBSTANCES OR A PRESCRIBING PHYSICIAN
8 OR PHARMACY CONCERNING AN INDIVIDUAL SUSPECTED OF ATTEMPTING TO
9 OBTAIN A CONTROLLED SUBSTANCE BY FRAUD, DECEIT, OR
10 MISREPRESENTATION.

11 (C) A PERSON WITH WHOM THE DEPARTMENT HAS CONTRACTED UNDER
12 SUBSECTION (8).

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

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

22 (6) EXCEPT AS OTHERWISE PROVIDED IN THIS PART, INFORMATION
23 SUBMITTED TO THE DEPARTMENT UNDER THIS SECTION SHALL BE USED ONLY
24 FOR BONA FIDE DRUG-RELATED CRIMINAL INVESTIGATORY OR EVIDENTIARY
25 PURPOSES OR FOR INVESTIGATORY OR EVIDENTIARY PURPOSES IN
26 CONNECTION WITH THE FUNCTIONS OF 1 OR MORE OF THE LICENSING
27 BOARDS CREATED IN ARTICLE 15.

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

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

14 PART 82

15 FACILITY LICENSING

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

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

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

2 (B) THE APPLICANT WILL OPERATE THE LICENSED FACILITY IN
3 COMPLIANCE WITH THIS ARTICLE.

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

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

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

14 (F) THE PREMISES WERE INSPECTED AND THE INSPECTION OF THE
15 PREMISES AND THE OPERATIONS OF THE APPLICANT DID NOT REVEAL ANY
16 REASON TO DENY THE LICENSE.

17 (G) THE CRIMINAL HISTORY CHECK CONDUCTED UNDER SUBSECTION
18 (2) DID NOT REVEAL ANY FELONY CONVICTIONS OR ANY CONVICTIONS
19 INVOLVING A CONTROLLED SUBSTANCE.

20 (H) ANY OTHER CRITERIA ESTABLISHED IN RULES PROMULGATED
21 UNDER THIS ARTICLE.

22 (2) AT THE TIME OF FILING AN APPLICATION FOR ISSUANCE OR
23 RENEWAL OF A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY
24 LICENSE, AN APPLICANT SHALL SUBMIT A SET OF HIS OR HER
25 FINGERPRINTS AND FILE PERSONAL HISTORY INFORMATION CONCERNING HIS
26 OR HER QUALIFICATIONS FOR A LICENSE UNDER THIS ARTICLE. THE
27 DEPARTMENT SHALL SUBMIT THE FINGERPRINTS TO THE DEPARTMENT OF

1 STATE POLICE FOR THE PURPOSE OF CONDUCTING A FINGERPRINT-BASED
2 CRIMINAL HISTORY CHECK. FINGERPRINTS SHALL BE SUBMITTED IN A FORM
3 AND MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE AND SHALL
4 BE SUBJECT TO NORMAL FINGERPRINTING FEES. THE DEPARTMENT OF STATE
5 POLICE SHALL FORWARD THE FINGERPRINTS TO THE FEDERAL BUREAU OF
6 INVESTIGATION FOR THE PURPOSE OF CONDUCTING A FINGERPRINT-BASED
7 CRIMINAL HISTORY CHECK. THE DEPARTMENT MAY ACQUIRE A NAME-BASED
8 CRIMINAL HISTORY CHECK FOR AN APPLICANT WHO HAS TWICE SUBMITTED
9 TO A FINGERPRINT-BASED CRIMINAL HISTORY CHECK UNDER THIS PART AND
10 WHOSE FINGERPRINTS ARE UNCLASSIFIABLE. AN APPLICANT WHO HAS
11 PREVIOUSLY SUBMITTED FINGERPRINTS UNDER THIS PART MAY REQUEST
12 THAT THE FINGERPRINTS ON FILE BE USED. THE DEPARTMENT SHALL USE
13 THE INFORMATION RESULTING FROM THE FINGERPRINT-BASED CRIMINAL
14 HISTORY CHECK TO INVESTIGATE AND DETERMINE WHETHER AN APPLICANT
15 IS QUALIFIED TO HOLD A LICENSE UNDER THIS ARTICLE. THE DEPARTMENT
16 MAY VERIFY ANY OF THE INFORMATION AN APPLICANT IS REQUIRED TO
17 SUBMIT. THE DEPARTMENT OF STATE POLICE SHALL RETAIN A COPY OF THE
18 FINGERPRINT IMAGES AND SHALL NOTIFY THE DEPARTMENT IN THE EVENT
19 THAT A LICENSEE UNDER THIS ARTICLE IS ARRESTED OR CONVICTED. THE
20 FEDERAL BUREAU OF INVESTIGATION MAY RETAIN A COPY OF THE
21 FINGERPRINT IMAGES TO PROVIDE NOTIFICATION IF A LICENSEE UNDER
22 THIS ARTICLE IS ARRESTED OR CONVICTED. WHEN NOTIFIED OF AN
23 UPDATED ARREST OR CONVICTION, THE DEPARTMENT SHALL DETERMINE
24 WHETHER A LICENSEE IS STILL QUALIFIED TO HOLD A LICENSE UNDER
25 THIS ARTICLE. THE DEPARTMENT SHALL NOTIFY THE DEPARTMENT OF STATE
26 POLICE TO DEACTIVATE NOTIFICATION WHEN AN INDIVIDUAL CEASES TO BE
27 A LICENSEE UNDER THIS ARTICLE.

1 SEC. 8209. THE DEPARTMENT MAY DELEGATE THE DUTY OF
2 INSPECTIONS FOR APPROVAL OR RENEWAL OF PHARMACEUTICAL-GRADE
3 CANNABIS LICENSED FACILITY LICENSES TO A LOCAL HEALTH DEPARTMENT
4 THAT HAS THE TECHNICAL AND OTHER CAPABILITIES TO PROTECT THE
5 PUBLIC HEALTH, SAFETY, AND WELFARE IN THIS FIELD. THE DELEGATION
6 SHALL NOT TAKE PLACE UNLESS THE DEPARTMENT HAS FIRST CONSULTED
7 WITH AN AD HOC COMMITTEE THAT SHALL BE APPOINTED BY THE
8 DEPARTMENT FOR THE PURPOSE OF ADVISING ON THAT DELEGATION.
9 MEMBERSHIP ON THE AD HOC COMMITTEE SHALL INCLUDE REPRESENTATIVES
10 OF THE DEPARTMENT, LOCAL PUBLIC HEALTH AGENCIES, AND AN
11 ASSOCIATION THAT REPRESENTS THE PHARMACEUTICAL-GRADE CANNABIS
12 LICENSED FACILITIES THAT WOULD BE SUBJECT TO THE INSPECTIONS. IF
13 DELEGATED UNDER THIS SECTION, THE STATE SHALL REIMBURSE EACH
14 LOCAL HEALTH DEPARTMENT THE FULL AMOUNT OF THE FEES COLLECTED, AS
15 REIMBURSEMENT FOR THE COST OF INSPECTION, ON VOUCHERS CERTIFIED
16 BY THE LOCAL HEALTH OFFICER AND APPROVED BY THE DEPARTMENT.

17 SEC. 8211. NOT LATER THAN THE THIRTIETH DAY BEFORE THE
18 EXPIRATION OF AN ANNUAL LICENSE UNDER THIS PART, A PERSON
19 OPERATING A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY
20 SEEKING RELICENSURE SHALL APPLY FOR LICENSE RENEWAL AND SHALL PAY
21 A FEE AS PRESCRIBED IN THIS ARTICLE. UPON COMPLIANCE BY AN
22 APPLICANT FOR LICENSE RENEWAL WITH THE REQUIREMENTS OF THIS
23 ARTICLE AND PAYMENT OF THE LICENSE RENEWAL FEE, THE DEPARTMENT
24 SHALL ISSUE A RENEWAL LICENSE.

25 PART 83

26 PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY OPERATIONS

27 SEC. 8301. A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY

1 SHALL ESTABLISH LEGAL CONTROL OF ITS PHYSICAL LOCATION. THE
2 PHYSICAL LOCATION SHALL MEET ALL APPLICABLE STATE AND LOCAL
3 ZONING LAWS.

4 SEC. 8303. (1) A PHARMACEUTICAL-GRADE CANNABIS LICENSED
5 FACILITY SHALL MAINTAIN ON THE PREMISES A RECORD OF THE NAME,
6 ADDRESS, AND DATE OF BIRTH OF EACH OFFICER, DIRECTOR, PARTNER,
7 MEMBER, MANAGER, OR EMPLOYEE OF THAT LICENSED FACILITY. THE
8 LICENSED FACILITY SHALL OBTAIN THE INDIVIDUAL'S IDENTIFICATION
9 AND HAVE A CRIMINAL HISTORY CHECK CONDUCTED TO DETERMINE IF THAT
10 INDIVIDUAL IS QUALIFIED TO WORK AT OR BE ASSOCIATED WITH THE
11 LICENSED FACILITY UNDER THIS ARTICLE.

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

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

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

24 (5) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL
25 DESTROY ALL MARIHUANA THAT IT CULTIVATES OR THAT IS OTHERWISE IN
26 ITS POSSESSION THAT IS DETERMINED NOT TO BE PHARMACEUTICAL-GRADE
27 CANNABIS. A LICENSED FACILITY SHALL KEEP RECORDS OF ITS

1 ACTIVITIES UNDER THIS SUBSECTION IN ORDER TO VERIFY ITS
2 COMPLIANCE TO THE DEPARTMENT.

3 (6) PHARMACEUTICAL-GRADE CANNABIS SHALL MEET THE FOLLOWING
4 STANDARDS:

5 MICROBIOLOGICAL	
6 <u>MICROBIOLOGICAL ANALYSIS</u>	7 <u>FPL SPECIFICATIONS</u>
8 TOTAL COLIFORMS	<3 MPN/G
9 STD. PLATE COUNT AEROBIC	<100 CFU/G
10 STD. PLATE COUNT ANAEROBIC	<100 CFU/G
11 ESCHERICHIA COLI	ABSENT
12 SALMONELLA	ABSENT
13 STAPHYLOCOCCUS AUREUS	<100 CFU/G
14 YEAST AND MOLDS	<100 CFU/G

15 MYCOTOXINS	
16 <u>TEST</u>	17 <u>SPECIFICATION</u>
18 AFLATOXIN B1	<20 µG/KG OF SUBSTANCE
19 AFLATOXIN B2	<20 µG/KG OF SUBSTANCE
20 AFLATOXIN O1	<20 µG/KG OF SUBSTANCE
21 AFLATOXIN O2	<20 µG/KG OF SUBSTANCE
22 OCHRATOXIN A	<20 µG/KG OF SUBSTANCE

23 HEAVY METALS	
24 <u>METAL</u>	25 <u>NHP ACCEPTABLE LIMITS</u>
	26 <u>µG/KG BW/DAY</u>
27 ARSENIC	<0.14
28 CADMIUM	<0.09
29 LEAD	<0.29
	<0.29

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

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

6 SEC. 8307. A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY
7 MAY OPERATE ON ANY CALENDAR DAYS OF THE WEEK, BUT SHALL DO ALL OF
8 THE FOLLOWING:

9 (A) PROHIBIT SMOKING OR CONSUMPTION OF MARIHUANA ON ITS
10 PREMISES.

11 (B) MAINTAIN ALL RECORDS REQUIRED UNDER THIS ARTICLE ON ITS
12 PREMISES.

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

23 SEC. 8309. IN ADDITION TO THE PROVISIONS OF SECTION 2946 OF
24 THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.2946, IN
25 A PRODUCT LIABILITY ACTION AGAINST A PHARMACEUTICAL-GRADE
26 CANNABIS LICENSED FACILITY, PHARMACEUTICAL-GRADE CANNABIS IS NOT
27 DEFECTIVE OR UNREASONABLY DANGEROUS, AND THE PHARMACEUTICAL-GRADE

1 CANNABIS LICENSED FACILITY IS NOT LIABLE, IF THE PRODUCT SOLD WAS
2 TESTED AND DETERMINED TO MEET THE STANDARDS FOR PHARMACEUTICAL-
3 GRADE CANNABIS UNDER THIS ARTICLE.

4 PART 84

5 SALE AND DISTRIBUTION OF PHARMACEUTICAL-GRADE CANNABIS

6 SEC. 8401. (1) A PHARMACEUTICAL-GRADE CANNABIS LICENSED
7 FACILITY SHALL NOT SELL OR OTHERWISE DISTRIBUTE PHARMACEUTICAL-
8 GRADE CANNABIS EXCEPT AS PROVIDED IN THIS SECTION.

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

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

24 (4) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY MAY
25 SELL OR OTHERWISE DISTRIBUTE PHARMACEUTICAL-GRADE CANNABIS TO
26 PHARMACIES FOR SALE OR DISTRIBUTION ONLY TO ELIGIBLE PATIENTS AS
27 PROVIDED IN THIS ARTICLE.

1 (5) A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY SHALL
2 REPORT TO THE DEPARTMENT ON A QUARTERLY BASIS ALL QUANTITIES OF
3 PHARMACEUTICAL-GRADE CANNABIS SOLD TO LICENSED PHARMACISTS,
4 RETAIL PHARMACIES, AND OTHER PHARMACEUTICAL-GRADE CANNABIS
5 LICENSED FACILITIES. THE REPORT SHALL BE IN WRITING AND SHALL
6 INCLUDE THE NAME AND ADDRESS OF EACH PHARMACIST, RETAIL PHARMACY,
7 AND PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY TO WHICH THE
8 PHARMACEUTICAL-GRADE CANNABIS IS SOLD. A REPORT UNDER THIS SUB-
9 SECTION MAY BE TRANSMITTED ELECTRONICALLY, IF THE TRANSMISSION IS
10 ULTIMATELY REDUCED TO WRITING.

11 PART 85

12 ENFORCEMENT

13 SEC. 8501. (1) THE DEPARTMENT SHALL ENFORCE THIS ARTICLE AND
14 THE APPLICABLE PROVISIONS OF ARTICLE 7 AND SHALL CONDUCT AT LEAST
15 1 INSPECTION OF EACH PHARMACEUTICAL-GRADE CANNABIS LICENSED
16 FACILITY DURING THE TERM OF ITS LICENSE TO ENSURE COMPLIANCE WITH
17 THE REQUIREMENTS OF THIS ARTICLE AND ARTICLE 7.

18 (2) UPON A FINDING THAT AN EMERGENCY EXISTS REQUIRING
19 IMMEDIATE ACTION TO PROTECT THE PUBLIC HEALTH, SAFETY, AND
20 WELFARE, THE DEPARTMENT MAY ISSUE AN ORDER TO SUSPEND THE LICENSE
21 OF A PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY WITHOUT
22 NOTICE OR HEARING. THE ORDER SHALL RECITE THE EXISTENCE OF THE
23 EMERGENCY AND THE FACTS SUPPORTING A DETERMINATION OF THE NEED TO
24 PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE. NOTWITHSTANDING THIS
25 ACT OR THE ADMINISTRATIVE PROCEDURES ACT OF 1969, THE ORDER SHALL
26 BE EFFECTIVE IMMEDIATELY. A PERSON TO WHOM THE ORDER IS DIRECTED
27 SHALL COMPLY IMMEDIATELY BUT, ON APPLICATION TO THE DEPARTMENT,

1 SHALL BE AFFORDED A HEARING WITHIN 15 DAYS. ON THE BASIS OF THE
2 HEARING, THE ORDER OF SUMMARY SUSPENSION SHALL BE CONTINUED,
3 MODIFIED, OR DISSOLVED NOT LATER THAN 30 DAYS AFTER THE HEARING.

4 SEC. 8503. (1) IN ADDITION TO ANY OTHER PENALTIES PRESCRIBED
5 OR REMEDIES PROVIDED IN THIS ARTICLE, ARTICLE 7, AND ARTICLE 15,
6 THE DEPARTMENT MAY, ON ITS OWN MOTION OR ON RECEIPT OF A
7 COMPLAINT, AND AFTER AN INVESTIGATION AND A HEARING BEFORE AN
8 ADMINISTRATIVE LAW JUDGE AT WHICH THE PHARMACEUTICAL-GRADE
9 CANNABIS LICENSED FACILITY LICENSEE IS AFFORDED AN OPPORTUNITY TO
10 BE HEARD, SUSPEND OR REVOKE A FACILITY LICENSE ISSUED UNDER THIS
11 ARTICLE. THE DEPARTMENT MAY SUSPEND OR REVOKE A LICENSE FOR ANY
12 VIOLATION BY THE LICENSEE, A BOARD MEMBER, AN AGENT, OR AN
13 EMPLOYEE OF THE LICENSED FACILITY OR OF ANY OF THE TERMS,
14 CONDITIONS, OR PROVISIONS OF THE LICENSE ISSUED BY THE
15 DEPARTMENT. THE DEPARTMENT MAY ADMINISTER OATHS AND ISSUE
16 SUBPOENAS TO REQUIRE THE PRESENCE OF PERSONS AND THE PRODUCTION
17 OF PAPERS, BOOKS, AND RECORDS NECESSARY TO THE DETERMINATION OF
18 ANY HEARING THAT THE DEPARTMENT IS AUTHORIZED TO CONDUCT.

19 (2) THE DEPARTMENT SHALL PROVIDE NOTICE OF SUSPENSION OR
20 REVOCATION, AS WELL AS ANY REQUIRED NOTICE OF A HEARING, BY
21 MAILING THE SAME IN WRITING TO THE LICENSED FACILITY AT THE
22 ADDRESS CONTAINED IN THE LICENSE. IF A LICENSE IS SUSPENDED OR
23 REVOKED, NO PART OF THE FEES PAID FOR THE LICENSE UNDER THIS
24 ARTICLE OR UNDER ARTICLE 7 SHALL BE RETURNED TO THE LICENSEE. THE
25 DEPARTMENT MAY SUMMARILY SUSPEND A LICENSE WITHOUT NOTICE PENDING
26 ANY PROSECUTION, INVESTIGATION, OR PUBLIC HEARING.

27 SEC. 8505. IN ANY LICENSING HEARING HELD BY THE DEPARTMENT

1 UNDER THIS ARTICLE, A PERSON SHALL NOT REFUSE, UPON REQUEST OF
2 THE DEPARTMENT, TO TESTIFY OR PROVIDE OTHER INFORMATION ON THE
3 GROUNDS OF SELF-INCRIMINATION. ANY TESTIMONY OR OTHER INFORMATION
4 PRODUCED IN THE HEARING AND ANY INFORMATION DIRECTLY OR
5 INDIRECTLY DERIVED FROM THE TESTIMONY OR OTHER INFORMATION SHALL
6 NOT BE USED AGAINST THE PERSON IN ANY CRIMINAL PROSECUTION BASED
7 ON A VIOLATION OF THIS ARTICLE EXCEPT A PROSECUTION FOR PERJURY
8 COMMITTED WHILE TESTIFYING. CONTINUED REFUSAL TO TESTIFY OR
9 PROVIDE OTHER INFORMATION IS GROUNDS FOR THE SUSPENSION OR
10 REVOCATION OF A LICENSE OR REGISTRATION CARD ISSUED UNDER THIS
11 ARTICLE.

12 SEC. 8507. (1) THE OWNER, OPERATOR, OR AGENT OF A
13 PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY WHO KNOWINGLY
14 VIOLATES THIS ARTICLE OR WHO ESTABLISHES OR OPERATES A
15 PHARMACEUTICAL-GRADE CANNABIS LICENSED FACILITY IN VIOLATION OF
16 THIS ARTICLE IS GUILTY OF A CRIME AS FOLLOWS:

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

21 (B) EXCEPT AS PROVIDED IN SUBDIVISION (C), IF THE PERSON HAS
22 1 PRIOR CONVICTION FOR VIOLATING THIS ARTICLE, THE PERSON IS
23 GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE
24 THAN 180 DAYS OR A FINE OF NOT MORE THAN \$50,000.00, OR BOTH.

25 (C) IF THE PERSON HAS 2 OR MORE PRIOR CONVICTIONS FOR
26 VIOLATING THIS ARTICLE, OR INTENTIONALLY VIOLATES THIS ARTICLE,
27 THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT

1 FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT MORE THAN \$100,000.00,
2 OR BOTH.

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

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

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

27 Sec. 16169. (1) If an individual employed by or under

1 contract to the department has reasonable cause to believe that a
2 health professional may be impaired, the individual shall
3 transmit the information to the committee either orally or in
4 writing. Upon receipt of the information, the committee shall
5 request the program consultant described in section 16168 to
6 determine whether or not the health professional may be impaired.

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

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

17 (2) The identity of a health professional who participates
18 in the health professional recovery program is confidential and
19 is not subject to disclosure under discovery or subpoena or the
20 freedom of information act, ~~Act No. 442 of the Public Acts of~~
21 ~~1976, being sections 15.231 to 15.246 of the Michigan Compiled~~
22 ~~Laws, 1976 PA 442, MCL 15.231 TO 15.246~~, unless the health
23 professional fails to satisfactorily participate in and complete
24 a treatment plan prescribed under the health professional
25 recovery program or violates section 16170(3).

26 (3) If a health professional successfully participates in
27 and completes a treatment plan prescribed under the health

1 professional recovery program, as determined by the committee,
2 the department shall destroy all records pertaining to the
3 impairment of the health professional, including records
4 pertaining to the health professional's participation in the
5 treatment plan, upon the expiration of 5 years after the date of
6 the committee's determination. This subsection does not apply to
7 records pertaining to a violation of this article, ~~or~~ article 7,
8 **OR ARTICLE 8** or a rule promulgated under this article, ~~or~~ article
9 7, **OR ARTICLE 8**.

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

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

13 (b) Be of good moral character.

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

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

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

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

1 (a) Establish that disciplinary proceedings before a similar
2 licensure, registration, or specialty licensure or specialty
3 certification board of this or any other state, of the United
4 States military, of the federal government, or of another country
5 are not pending against the applicant.

6 (b) Establish that if sanctions have been imposed against
7 the applicant by a similar licensure, registration, or specialty
8 licensure or specialty certification board of this or any other
9 state, of the United States military, of the federal government,
10 or of another country based upon grounds that are substantially
11 similar to those set forth in this article, ~~or~~ article 7, **OR**
12 **ARTICLE 8** or the rules promulgated under this article, ~~or~~ article
13 7, **OR ARTICLE 8**, as determined by the board or task force to
14 which the applicant applies, the sanctions are not in force at
15 the time of application. This subdivision does not apply to an
16 application for licensure that the board may grant under section
17 17011(4) or 17511(2).

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

25 (3) Beginning October 1, 2008, an applicant for initial
26 licensure or registration shall submit his or her fingerprints to
27 the department of state police to have a criminal history check

1 conducted and request that the department of state police forward
2 his or her fingerprints to the federal bureau of investigation
3 for a national criminal history check. The department of state
4 police shall conduct a criminal history check and request the
5 federal bureau of investigation to make a determination of the
6 existence of any national criminal history pertaining to the
7 applicant. The department of state police shall provide the
8 department with a written report of the criminal history check if
9 the criminal history check contains any criminal history record
10 information. The department of state police shall forward the
11 results of the federal bureau of investigation determination to
12 the department within 30 days after the request is made. The
13 department shall notify the board and the applicant in writing of
14 the type of crime disclosed on the federal bureau of
15 investigation determination without disclosing the details of the
16 crime. The department of state police may charge a reasonable fee
17 to cover the cost of conducting the criminal history check. The
18 criminal history record information obtained under this
19 subsection shall be used only for the purpose of evaluating an
20 applicant's qualifications for licensure or registration for
21 which he or she has applied. A member of the board shall not
22 disclose the report or its contents to any person who is not
23 directly involved in evaluating the applicant's qualifications
24 for licensure or registration. Information obtained under this
25 subsection is confidential, is not subject to disclosure under
26 the freedom of information act, 1976 PA 442, MCL 15.231 to
27 15.246, and shall not be disclosed to any person except for

1 purposes of this section or for law enforcement purposes.

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

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

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

21 (5) If, after issuing a license, registration, specialty
22 certification, or health profession specialty field license, a
23 board or task force or the department determines that sanctions
24 have been imposed against the licensee or registrant by a similar
25 licensure or registration or specialty licensure or specialty
26 certification board as described in subsection (2)(b), the
27 disciplinary subcommittee may impose appropriate sanctions upon

1 the licensee or registrant. The licensee or registrant may
2 request a show cause hearing before a hearing examiner to
3 demonstrate why the sanctions should not be imposed.

4 (6) An applicant for licensure, registration, specialty
5 certification, or a health profession specialty field license who
6 is or has been licensed, registered, or certified in a health
7 profession or specialty by another state or country shall
8 disclose that fact on the application form.

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

12 (2) The department may serve a notice of hearing or a
13 complaint on an applicant, licensee, or registrant in an action
14 or proceeding for 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** by regular mail and by certified mail, return
17 receipt requested, to the applicant's, licensee's, or
18 registrant's last known address, by serving the notice on the
19 applicant, licensee, or registrant, or by making a reasonable
20 attempt to serve the notice on the applicant, licensee, or
21 registrant. For purposes of this subsection, if service is by
22 mail, service is effective 3 days after the date of mailing, and
23 nondelivery does not affect the validity of the service if the
24 nondelivery was caused by the refusal of the applicant, licensee,
25 or registrant to accept service.

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

27 Sec. 16216. (1) The chair of each board or task force shall

1 appoint 1 or more disciplinary subcommittees for that board or
2 task force. A disciplinary subcommittee for a board or task force
3 shall consist of 2 public members and 3 professional members from
4 the board or task force. The chair of a board or task force shall
5 not serve as a member of a disciplinary subcommittee.

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

10 (3) A final decision of the disciplinary subcommittee
11 imposing a sanction under this article, ~~or~~ **article 7, OR ARTICLE**
12 **8** or a final decision of the disciplinary subcommittee other than
13 a final decision described in subsection (2) requires a majority
14 vote of the members appointed and serving on the disciplinary
15 subcommittee with an affirmative vote by at least 1 public
16 member.

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

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

1 (a) A violation of general duty, consisting of negligence or
2 failure to exercise due care, including negligent delegation to
3 or supervision of employees or other individuals, whether or not
4 injury results, or any conduct, practice, or condition that
5 impairs, or may impair, the ability to safely and skillfully
6 practice the health profession.

7 (b) Personal disqualifications, consisting of 1 or more of
8 the following:

9 (i) Incompetence.

10 (ii) Subject to sections 16165 to 16170a, substance use
11 disorder as defined in section 100d of the mental health code,
12 1974 PA 258, MCL 330.1100d.

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

16 (iv) Declaration of mental incompetence by a court of
17 competent jurisdiction.

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

23 (vi) Lack of good moral character.

24 (vii) Conviction of a criminal offense under section 520e or
25 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and
26 750.520g. A certified copy of the court record is conclusive
27 evidence of the conviction.

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

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

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

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

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

22 (xiii) Conviction of a criminal offense under section 520b,
23 520c, 520d, or 520f of the Michigan penal code, 1931 PA 328, MCL
24 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of
25 the court record is conclusive evidence of the conviction.

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

1 (i) Fraud or deceit in obtaining or renewing a license or
2 registration.

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

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

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

11 (d) Unethical business practices, consisting of 1 or more of
12 the following:

13 (i) False or misleading advertising.

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

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

19 (e) Unprofessional conduct, consisting of 1 or more of the
20 following:

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

24 (ii) Betrayal of a professional confidence.

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

27 (iv) Either of the following:

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

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

1 sections 17001 and 17501.

2 (v) For a physician who makes referrals pursuant to 42 USC
3 1395nn or a regulation promulgated under that section, refusing
4 to accept a reasonable proportion of patients eligible for
5 Medicaid and refusing to accept payment from Medicaid or Medicare
6 as payment in full for a treatment, procedure, or service for
7 which the physician refers the individual and in which the
8 physician has a financial interest. A physician who owns all or
9 part of a facility in which he or she provides surgical services
10 is not subject to this subparagraph if a referred surgical
11 procedure he or she performs in the facility is not reimbursed at
12 a minimum of the appropriate Medicaid or Medicare outpatient fee
13 schedule, including the combined technical and professional
14 components.

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

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

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

27 (i) Failure to comply with a subpoena issued pursuant to

1 this part, failure to respond to a complaint issued under this
2 article, ~~or~~ article 7, **OR ARTICLE 8**, failure to appear at a
3 compliance conference or an administrative hearing, or failure to
4 report under section 16222 or 16223.

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

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

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

11 (m) A violation of section 17015, 17015a, 17017, 17515, or
12 17517.

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

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

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

16 (q) A violation of section 16274.

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

18 (s) A violation of the medical records access act, 2004 PA
19 47, MCL 333.26261 to 333.26271.

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

21 Sec. 16222. (1) A licensee or registrant ~~having~~ **WHO HAS**
22 knowledge that another licensee or registrant has committed a
23 violation under section 16221, ~~or~~ article 7, **OR ARTICLE 8** or a
24 rule promulgated under article 7 **OR ARTICLE 8** shall report the
25 conduct and the name of the subject of the report to the
26 department. Information obtained by the department under this
27 subsection is confidential and is subject to sections 16238 and

1 16244. Failure of a licensee or registrant to make a report under
2 this subsection does not give rise to a civil cause of action for
3 damages against the licensee or registrant, but the licensee or
4 registrant is subject to administrative action under sections
5 16221 and 16226. This subsection does not apply to a licensee or
6 registrant who obtains the knowledge of a violation while
7 providing professional services to the licensee or registrant to
8 whom the knowledge applies, who is serving on a duly constituted
9 ethics or peer review committee of a professional association, or
10 who is serving on a committee assigned a professional review
11 function in a health facility or agency.

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

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

25 Sec. 16226. (1) After finding the existence of 1 or more of
26 the grounds for disciplinary subcommittee action listed in
27 section 16221, a disciplinary subcommittee shall impose 1 or more

1 of the following sanctions for each violation:

<u>2</u> <u>Violations of Section 16221</u>	<u>Sanctions</u>
<u>3</u> Subdivision (a), (b) (ii),	Probation, limitation, denial,
<u>4</u> (b) (iv), (b) (vi), or	suspension, revocation,
<u>5</u> (b) (vii)	restitution, community service,
<u>6</u>	or fine.
<u>7</u>	
<u>8</u> Subdivision (b) (viii)	Revocation or denial.
<u>9</u>	
<u>10</u> Subdivision (b) (i),	Limitation, suspension,
<u>11</u> (b) (iii), (b) (v),	revocation, denial,
<u>12</u> (b) (ix), (b) (x),	probation, restitution,
<u>13</u> (b) (xi), or (b) (xii)	community service, or fine.
<u>14</u>	
<u>15</u> Subdivision (b) (xiii)	Probation, limitation, denial,
<u>16</u>	suspension, revocation,
<u>17</u>	restitution, community service,
<u>18</u>	fine, or, subject to subsection
<u>19</u>	(5), permanent revocation.
<u>20</u>	
<u>21</u>	
<u>22</u> Subdivision (c) (i)	Denial, revocation, suspension,
<u>23</u>	probation, limitation, community
<u>24</u>	service, or fine.
<u>25</u>	
<u>26</u> Subdivision (c) (ii)	Denial, suspension, revocation,
<u>27</u>	restitution, community service,
<u>28</u>	or fine.
<u>29</u>	
<u>30</u> Subdivision (c) (iii)	Probation, denial, suspension,

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

1		
2	Subdivision (j)	Suspension or fine.
3		
4	Subdivision (k), (p),	Reprimand or fine.
5	or (r)	
6		
7	Subdivision (l)	Reprimand, denial, or
8		limitation.
9		
10	Subdivision (m) or (o)	Denial, revocation, restitution,
11		probation, suspension,
12		limitation, reprimand, or fine.
13		
14	Subdivision (n)	Revocation or denial.
15		
16	Subdivision (q)	Revocation.
17		
18	Subdivision (t)	Revocation, fine, and
19		restitution.

20 (2) Determination of sanctions for violations under this
21 section shall be made by a disciplinary subcommittee. If, during
22 judicial review, the court of appeals determines that a final
23 decision or order of a disciplinary subcommittee prejudices
24 substantial rights of the petitioner for 1 or more of the grounds
25 listed in section 106 of the administrative procedures act of
26 1969, 1969 PA 306, MCL 24.306, and holds that the final decision
27 or order is unlawful and is to be set aside, the court shall
28 state on the record the reasons for the holding and may remand
29 the case to the disciplinary subcommittee for further

1 consideration.

2 (3) A disciplinary subcommittee may impose a fine of up to,
3 but not exceeding, \$250,000.00 for a violation of section
4 16221(a) or (b).

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

13 (5) A disciplinary subcommittee shall not impose the
14 sanction of permanent revocation for a violation of section
15 16221(b) (*xiii*) unless the violation occurred while the licensee or
16 registrant was acting within the health profession for which he
17 or she was licensed or registered.

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

23 (2) If, upon reviewing an application or an allegation or a
24 licensee's file under section 16211(4), the department determines
25 there is a reasonable basis to believe the existence of a
26 violation of this article, ~~or~~ **ARTICLE 7, OR ARTICLE 8** or a rule
27 promulgated under this article, ~~or~~ **ARTICLE 7, OR ARTICLE 8**, the

1 department, with the authorization of the chair of the
2 appropriate board or task force or his or her designee, shall
3 investigate. If the chair or his or her designee fails to grant
4 or deny authorization within 7 days after receipt of a request
5 for authorization, the department shall investigate.

6 (3) Upon the receipt of information reported pursuant to
7 section 16243(2) that indicates 3 or more malpractice
8 settlements, awards, or judgments against a licensee in a period
9 of 5 consecutive years or 1 or more malpractice settlements,
10 awards, or judgments against a licensee totaling more than
11 \$200,000.00 in a period of 5 consecutive years, whether or not a
12 judgment or award is stayed pending appeal, the department shall
13 investigate.

14 (4) At any time during an investigation or following the
15 issuance of a complaint, the department may schedule a compliance
16 conference ~~pursuant to~~ **UNDER** section 92 of the administrative
17 procedures act of 1969, MCL 24.292. The conference may include
18 the applicant, licensee, registrant, or individual, the
19 applicant's, licensee's, registrant's, or individual's attorney,
20 1 member of the department's staff, and any other individuals
21 approved by the department. One member of the appropriate board
22 or task force who is not a member of the disciplinary
23 subcommittee with jurisdiction over the matter may attend the
24 conference and provide such assistance as needed. At the
25 compliance conference, the department shall attempt to reach
26 agreement. If an agreement is reached, the department shall
27 submit a written statement outlining the terms of the agreement,

1 or a stipulation and final order, if applicable, or a request for
2 dismissal to the appropriate disciplinary subcommittee for
3 approval. If the agreement or stipulation and final order or
4 request for dismissal is rejected by the disciplinary
5 subcommittee, or if no agreement is reached, a hearing before a
6 hearings examiner shall be scheduled. A party shall not make a
7 transcript of the compliance conference. All records and
8 documents of a compliance conference held before a complaint is
9 issued are subject to section 16238.

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

- 13 (a) Issue a formal complaint.
- 14 (b) Conduct a compliance conference under subsection (4).
- 15 (c) Issue a summary suspension.
- 16 (d) Issue a cease and desist order.
- 17 (e) Dismiss the complaint.
- 18 (f) Place in the complaint file not more than 1 written
19 extension of not more than 30 days to take action under this
20 subsection.

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

27 (7) The department shall serve a complaint ~~pursuant to~~ **UNDER**

1 section 16192. The department shall include in the complaint a
2 notice that the applicant, licensee, registrant, or individual
3 who is the subject of the complaint has 30 days from the date of
4 receipt to respond in writing to the complaint.

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

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

1 who is not a member of the disciplinary subcommittee with
2 jurisdiction over the matter may attend the hearing and provide
3 such assistance as needed.

4 (2) The hearings examiner shall determine if there are
5 grounds for disciplinary action under section 16221 or if the
6 applicant, licensee, or registrant has violated this article, ~~or~~
7 article 7, **OR ARTICLE 8** or the rules promulgated under this
8 article, ~~or~~ article 7, **OR ARTICLE 8**. The hearings examiner shall
9 prepare recommended findings of fact and conclusions of law for
10 transmittal to the appropriate disciplinary subcommittee. The
11 hearings examiner shall not recommend or impose penalties.

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

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

24 (5) Unless a continuance has been granted under subsection
25 (3), failure of an applicant, licensee, or registrant to appear
26 or be represented at a scheduled hearing shall be treated by the
27 hearings examiner as a default and an admission of the

1 allegations contained in the complaint. The hearings examiner
2 shall notify the appropriate disciplinary subcommittee of the
3 individual's failure to appear and forward a copy of the
4 complaint and any other relevant records to the disciplinary
5 subcommittee. The disciplinary subcommittee may then impose an
6 appropriate sanction under **ANY COMBINATION OF** this article, ~~or~~
7 article 7, or ~~both~~ **ARTICLE 8**.

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

13 (2) The department shall provide an opportunity for a
14 hearing in connection with the denial, limitation, suspension,
15 revocation, or reinstatement of a registration or a proceeding to
16 reprimand, fine, order community service or restitution, or place
17 a registrant on probation.

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

21 (4) Only the department shall promulgate rules governing
22 hearings under this article, ~~or~~ article 7, **ARTICLE 8** and related
23 preliminary proceedings.

24 Sec. 16233. (1) The department may conduct an investigation
25 necessary to administer and enforce this article. Investigations
26 may include written, oral, or practical tests of a licensee's or
27 registrant's competency. The department may establish a special

1 paralegal unit to assist the department.

2 (2) The department may order an individual to cease and
3 desist from a violation of this article, ~~or~~ article 7, **OR ARTICLE**
4 **8** or a rule promulgated under this article, ~~or~~ article 7, **OR**
5 **ARTICLE 8**.

6 (3) An individual ordered to cease and desist under
7 subsection (2) is entitled to a hearing before a hearings
8 examiner if the individual files a written request for a hearing
9 within 30 days after the effective date of the cease and desist
10 order. The department shall subsequently present the notice, if
11 any, of the individual's failure to respond to a complaint, or
12 attend or be represented at a hearing as described in sections
13 16231 and 16231a, or the recommended findings of fact and
14 conclusions of law to the appropriate disciplinary subcommittee
15 to determine whether the order is to remain in effect or be
16 dissolved.

17 (4) Upon a violation of a cease and desist order issued
18 under subsection (2), the department of attorney general may
19 apply in the circuit court to restrain and enjoin, temporarily or
20 permanently, an individual from further violating the cease and
21 desist order.

22 (5) After consultation with the chair of the appropriate
23 board or task force or his or her designee, the department may
24 summarily suspend a license or registration if the public health,
25 safety, or welfare requires emergency action in accordance with
26 section 92 of the administrative procedures act of 1969, MCL
27 24.292. If a licensee or registrant is convicted of a felony; a

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

16 Sec. 16237. (1) In imposing a penalty under section
17 16232(3), a disciplinary subcommittee shall review the
18 recommended findings of fact and conclusions of law of the
19 hearings examiner.

20 (2) The department of attorney general may assign an
21 independent special assistant attorney general who is under
22 contract to the department of attorney general and is not a
23 member of the state classified civil service to advise the
24 disciplinary subcommittees on matters of law and provide other
25 legal assistance as necessary. A special assistant attorney
26 general assigned to the disciplinary subcommittees under this
27 subsection shall not be the same individual who represented the

1 department before a hearings examiner under section 16231a(4).

2 (3) In reviewing the recommended findings of fact and
3 conclusions of law of the hearings examiner and the record of the
4 hearing, a disciplinary subcommittee may request the hearings
5 examiner to take additional testimony or evidence on a specific
6 issue or may revise the recommended findings of fact and
7 conclusions of law as determined necessary by the disciplinary
8 subcommittee, or both. A disciplinary subcommittee shall not
9 conduct its own investigation or take its own additional
10 testimony or evidence under this subsection.

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

24 (5) The compliance conference, the hearing before the
25 hearings examiner, and final disciplinary subcommittee action
26 shall be completed within 1 year after the department initiates
27 an investigation under section 16231(2) or (3). The department

1 shall note in its annual report any exceptions to the 1-year
2 requirement.

3 (6) A final decision of a disciplinary subcommittee rendered
4 after the effective date of the amendatory act that added this
5 section but before January 1, 1995 may be appealed only in the
6 manner provided in sections 103 to 106 of the administrative
7 procedures act of 1969, ~~being sections 24.303 to 24.306 of the~~
8 ~~Michigan Compiled Laws. 1969 PA 306, MCL 24.301 TO 24.306.~~ A
9 final decision of a disciplinary subcommittee rendered on or
10 after January 1, 1995 may be appealed only to the court of
11 appeals. An appeal filed under this subsection is by right.

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

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

1 transmit the compilation to each county clerk in ~~the~~**THIS** state
2 once each calendar year.

3 (3) The department of ~~public~~**COMMUNITY** health shall report
4 the disciplinary actions to appropriate licensed health
5 facilities and agencies. The ~~commissioner~~**DIRECTOR OF THE**
6 **DEPARTMENT** of insurance **AND FINANCIAL SERVICES** shall report the
7 disciplinary actions received from the department of ~~commerce~~ to
8 insurance carriers providing professional liability insurance.

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

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

24 (6) A licensee or registrant whose license or registration
25 is revoked or is suspended for more than 60 days under this
26 article shall notify in writing each patient or client to whom
27 the licensee or registrant rendered professional services in the

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

1 employer, if any, and to each hospital, if any, in which the
2 licensee or registrant is admitted to practice.

3 (7) A licensee or registrant who is reprimanded, fined,
4 placed on probation, or ordered to pay restitution under this
5 article or an applicant whose application for licensure or
6 registration is denied under this article shall notify his or her
7 employer, if any, and each hospital, if any, in which he or she
8 is admitted to practice, in the same manner as provided for
9 notice of revocation or suspension to an employer or hospital
10 under subsection (6), within 10 days after the date of the final
11 order imposing the sanction.

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

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

20 (b) Investigations and complaints closed or dismissed.

21 (c) Actions taken by each disciplinary subcommittee,
22 separated out by type of complaint, health profession, and final
23 order issued.

24 (d) Recommendations by boards and task forces.

25 (e) The number of extensions and delays granted by the
26 department that were in excess of the time limits required under
27 this article for each phase of the disciplinary process, and the

1 types of cases for which the extensions and delays were granted.

2 ~~—— (9) Within 2 years after the effective date of the~~
3 ~~amendatory act that added this subsection, the department of~~
4 ~~commerce shall submit a public report to the legislature on the~~
5 ~~effectiveness of the amendatory act that added this subsection.~~
6 ~~The report shall include a review and evaluation of the~~
7 ~~disciplinary process and the reporting requirements of this~~
8 ~~article and article 17 and recommended administrative or~~
9 ~~statutory changes, if any.~~

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

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

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

23 (4) Except as otherwise provided in this subsection, in case
24 of a revoked license or registration, an applicant shall not
25 apply for reinstatement before the expiration of 3 years after
26 the effective date of the revocation. In the case of a license or
27 registration that was revoked for a violation of section

1 16221(b) (vii) or (xiii), a violation of section 16221(c) (iv)
2 consisting of a felony conviction, any other felony conviction
3 involving a controlled substance, or a violation of section
4 16221(q), an applicant shall not apply for reinstatement before
5 the expiration of 5 years after the effective date of the
6 revocation. In the case of a license or registration that was
7 permanently revoked for a violation of section 16221(b) (xiii), the
8 former licensee or registrant is ineligible for reinstatement.
9 The department shall return an application for reinstatement
10 received before the expiration of the applicable time period
11 under this subsection or if the applicant is ineligible for
12 reinstatement under this subsection.

13 (5) The department shall provide an opportunity for a
14 hearing before final rejection of an application for
15 reinstatement unless the application is returned because the
16 applicant is ineligible for reinstatement under subsection (4).

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

27 (7) An individual who seeks reinstatement or

1 reclassification of a license or registration pursuant to this
2 section shall pay the application processing fee as a
3 reinstatement or reclassification fee. If approved for
4 reinstatement or reclassification, the individual shall pay the
5 per year license or registration fee for the applicable license
6 or registration period.

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

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

20 (2) The state treasurer shall direct the investment of the
21 health professions regulatory fund. Interest and earnings from
22 health professions regulatory fund investment shall be credited
23 to the health professions regulatory fund.

24 (3) The unencumbered balance in the health professions
25 regulatory fund at the close of the fiscal year shall remain in
26 the health professions regulatory fund and shall not revert to
27 the general fund.

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

3 (5) The department ~~of community health~~ shall use the health
4 professions regulatory fund to carry out its powers and duties
5 under this article, ~~and article 7, AND ARTICLE 8,~~ including, but
6 not limited to, reimbursing the department of attorney general
7 for the reasonable cost of services provided to the department ~~of~~
8 ~~community health~~ under this article, ~~and article 7, AND ARTICLE~~
9 ~~8. For the fiscal year ending September 30, 2007 only, subject to~~
10 ~~appropriations by the legislature and approval by the governor,~~
11 ~~the department of community health may also use the health~~
12 ~~professions regulatory fund to support health information~~
13 ~~technology initiatives.~~

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

20 (7) The state treasurer shall direct the investment of the
21 nurse professional fund, and shall credit interest and earnings
22 from the investment to the nurse professional fund. The nurse
23 professional fund may receive gifts and devises and other money
24 as provided by law.

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

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

3 (a) To promote safe patient care in all nursing practice
4 environments.

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

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

8 (d) To operate a nursing scholarship program.

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

12 (11) The state treasurer shall direct the investment of the
13 pain management education and controlled substances electronic
14 monitoring and antidiversion fund. Interest and earnings from
15 investment of the pain management education and controlled
16 substances electronic monitoring and antidiversion fund shall be
17 credited to the pain management education and controlled
18 substances electronic monitoring and antidiversion fund.

19 (12) The unencumbered balance in the pain management
20 education and controlled substances electronic monitoring and
21 antidiversion fund at the close of the fiscal year shall remain
22 in the pain management education and controlled substances
23 electronic monitoring and antidiversion fund and shall not revert
24 to the general fund. The pain management education and controlled
25 substances electronic monitoring and antidiversion fund may
26 receive gifts and devises and other money as provided by law.
27 Twenty dollars of the license fee received by the department of

Senate Bill No. 660 (H-1) as amended December 12, 2013

1 ~~community health~~ under section 16319 shall be deposited with the
2 state treasurer to the credit of the pain management education
3 and controlled substances electronic monitoring and antidiversion
4 fund. The department shall use the pain management education and
5 controlled substances electronic monitoring and antidiversion
6 fund only in connection with programs relating to pain management
7 education for health professionals, preventing the diversion of
8 controlled substances, and development and maintenance of the
9 electronic monitoring system for controlled substances data
10 required by section 7333a.

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

21 (a) The name, address, and telephone number of the
22 prescriber.

23 (b) [~~The~~ **EXCEPT AS OTHERWISE AUTHORIZED UNDER SECTION 17744A, THE**]
24 full name of the patient for whom the prescription
25 is issued.

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

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

2 (e) The identity of the pharmacy intended to receive the
3 transmission.

4 (f) Any other information required by the federal act or
5 state law.

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

16 (3) ~~Prior to~~ **BEFORE** dispensing a prescription that is
17 electronically transmitted, the pharmacist shall exercise
18 professional judgment regarding the accuracy, validity, and
19 authenticity of the transmitted prescription.

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

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

1 (2) In addition to the grounds set forth in subsection (1),
2 and in a manner consistent with part 161, the board may fine,
3 reprimand, or place on probation a person licensed under this
4 part, or deny, limit, suspend, or revoke a license issued under
5 this part or order restitution or community service if the board
6 finds that any of the following categories apply to an applicant
7 or a partner, officer, or member of the board of directors of a
8 pharmacy, manufacturer, or wholesale distributor licensed under
9 this part or a stockholder of a pharmacy, manufacturer, or
10 wholesale distributor which is a privately held corporation
11 licensed under this part:

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

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

18 (c) The applicant or other person described in this
19 subsection has furnished false or fraudulent material information
20 or has knowingly omitted material information in an application
21 filed under this part.

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

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

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

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

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

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

20 (b) "Cancer drug" means that term as defined in section
21 17780.

22 (c) "Charitable clinic" means a charitable nonprofit
23 corporation or facility that meets all of the following
24 requirements:

25 (i) Is organized as a not-for-profit corporation pursuant to
26 the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to
27 450.3192.

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

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

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

8 (v) Provides on an outpatient basis for a period of less
9 than 24 consecutive hours to persons not residing or confined at
10 the facility advice, counseling, diagnosis, treatment, surgery,
11 care, or services relating to the preservation or maintenance of
12 health.

13 (vi) Has a licensed pharmacy.

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

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

18 (i) Is a resident of this state.

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

23 (f) "Health professional" means any of the following
24 individuals licensed and authorized to prescribe and dispense
25 drugs or to provide medical, dental, or other health-related
26 diagnoses, care, or treatment within the scope of his or her
27 professional license:

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

3 (ii) A physician's assistant licensed under part 170, 175, or
4 180.

5 (iii) A dentist licensed under part 166.

6 (iv) An optometrist licensed under part 174.

7 (v) A pharmacist licensed under this part.

8 (vi) A podiatrist licensed under part 180.

9 (g) "Program" means the statewide unused prescription drug
10 repository and distribution program known as the program for
11 utilization of unused prescription drugs that is established
12 under this section.

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

24 (4) Participation in the program by an eligible facility,
25 manufacturer, pharmacy, or charitable clinic is voluntary.
26 Nothing in this section or section 17776 requires any eligible
27 facility, manufacturer, pharmacy, or charitable clinic to

1 participate in the program.

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

6 (a) Only prescription drugs in their original sealed,
7 tamper-evident, and unopened unit dose packaging may be accepted
8 for dispensing. However, prescription drugs packaged in single-
9 unit dose packaging may be accepted for dispensing even if the
10 outside packaging is open as long as the single-unit dose
11 packaging is unopened.

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

13 (i) Expired prescription drugs.

14 (ii) Controlled substances as defined in article 7 **OR ARTICLE**
15 **8** or by federal law.

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

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

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

25 (d) Subject to the limitations prescribed in this
26 subsection, unused or donated prescription drugs dispensed for
27 purposes of a medical assistance program or drug product donation

1 program may be accepted for dispensing under the program.

2 (e) Any additional criteria established in rules promulgated
3 under this section.

4 (6) A pharmacy or charitable clinic that meets the
5 eligibility requirements for participation in the program and any
6 rules promulgated under this section may do any of the following:

7 (a) Dispense prescription drugs accepted under the program
8 to eligible participants.

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

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

15 (a) Comply with all applicable federal laws and regulations
16 and state laws and rules related to the storage and distribution
17 of harmful drugs.

18 (b) Inspect all accepted prescription drugs before
19 dispensing the prescription drugs to determine that the drugs are
20 not adulterated.

21 (c) Dispense prescription drugs only pursuant to a
22 prescription issued by a health professional.

23 (8) A pharmacy, health professional, or charitable clinic
24 that accepts prescription drugs under the program shall not
25 resell the prescription drugs. Receipt of a fee from an eligible
26 participant, if established in rules promulgated under this
27 section, or reimbursement from a governmental agency to a

1 charitable clinic does not constitute resale of prescription
2 drugs under this subsection.

3 (9) For purposes of the lawful donation, acceptance, or
4 dispensing of prescription drugs under the program, the following
5 persons that are in compliance with the program, this section and
6 section 17776, and any rules promulgated under this section and
7 in the absence of bad faith or gross negligence are not subject
8 to criminal or civil liability for injury other than death, or
9 loss to person or property, or professional disciplinary action:

10 (a) The board.

11 (b) The department.

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

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

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

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

22 (10) A manufacturer is not, in the absence of bad faith,
23 subject to criminal prosecution or liability in tort or other
24 civil action for injury, death, or loss to person or property for
25 matters related to the donation, acceptance, or dispensing of a
26 prescription drug manufactured by the manufacturer that is
27 donated by any person under the program, including, but not

1 limited to, liability for failure to transfer or communicate
2 product or consumer information or the expiration date of the
3 donated prescription drug.

4 (11) Subject to subsection (12), the department, in
5 consultation with the board, shall promulgate rules under the
6 administrative procedures act of 1969 and establish procedures
7 necessary to establish, implement, and administer the program.
8 The board shall provide technical assistance to eligible
9 facilities, manufacturers, pharmacies, and charitable clinics
10 that participate in the program.

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

21 (a) Eligibility criteria for pharmacies and charitable
22 clinics authorized to accept and dispense prescription drugs for
23 the program.

24 (b) Eligibility criteria for eligible participants.

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

27 (d) Standards and procedures for transfer, transportation,

1 acceptance, safe storage, security, and dispensing of
2 prescription drugs.

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

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

9 (g) Standards and procedures for inspecting accepted
10 prescription drugs to ensure that the prescription drugs meet the
11 requirements of the program and to ensure that, in the
12 professional judgment of the pharmacist, the prescription drugs
13 meet all federal and state standards for product integrity.

14 (h) Procedures for the destruction and environmentally sound
15 disposal of prescription drugs or other medications that are
16 accepted and that are ineligible for dispensing under the
17 program.

18 (i) Procedures for verifying whether the charitable clinic,
19 pharmacy, pharmacist, or other health professionals participating
20 in the program are licensed and in good standing with the
21 applicable licensing board.

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

24 (k) ~~Establishment of standards~~ **STANDARDS** for the acceptance
25 by a pharmacy, health professional, or charitable clinic that
26 participates in the program from any person of a prescription
27 drug or any other medication that is ineligible for dispensing

1 under the program for destruction and disposal.

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

5 (13) Pursuant to the rules promulgated and standards and
6 procedures established for the program under this section, a
7 resident of an eligible facility or the representative or
8 guardian of a resident of an eligible facility may donate unused
9 prescription drugs for dispensing to eligible participants under
10 the program.

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

17 (15) This section and section 17776 do not impair or
18 supersede the provisions regarding the cancer drug repository
19 program established in section 17780. If any provision of this
20 section or section 17776 conflicts with a provision of section
21 17780 with regard to a cancer drug, section 17780 controls.

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

1 following:

2 (a) In good faith reports or intends to report, verbally or
3 in writing, the malpractice of a health professional or a
4 violation of this article, article 7, **ARTICLE 8**, or article 15 or
5 a rule promulgated under this article, article 7, **ARTICLE 8**, or
6 article 15.

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

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

13 Enacting section 1. Sections 7335 and 7336 of the public
14 health code, 1978 PA 368, MCL 333.7335 and 333.7336, are
15 repealed.