



HOUSE BILL No. 4743

May 11, 1993, Introduced by Reps. Gubow, Bennane, Gire, Stallworth, Berman, Leland, Hollister, Jondahl, Kilpatrick, Wetters, Dobronski, Scott, Shepich, Wallace, Olshove, Yokich, Freeman, Emerson, Ciaramitaro, Baade, DeMars, Harder, Harrison, Griffin, Porreca, Brown, Hood, Rivers, Mathieu, Byrum, Barns, Jacobetti, Gagliardi and Owen and referred to the Committee on Public Health.

A bill to amend sections 16221, 16226, 20165, and 22241 of Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code," sections 16221 and 16226 as amended by Act No. 15 of the Public Acts of 1989, section 20165 as amended by Act No. 179 of the Public Acts of 1990, and section 22241 as added by Act No. 332 of the Public Acts of 1988, being sections 333.16221, 333.16226, 333.20165, and 333.22241 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 16221, 16226, 20165, and 22241 of Act
2 No. 368 of the Public Acts of 1978, sections 16221 and 16226 as
3 amended by Act No. 15 of the Public Acts of 1989, section 20165
4 as amended by Act No. 179 of the Public Acts of 1990, and section
5 22241 as added by Act No. 332 of the Public Acts of 1988, being

1 sections 333.16221, 333.16226, 333.20165, and 333.22241 of the
2 Michigan Compiled Laws, are amended to read as follows:

3 Sec. 16221. The department may investigate activities
4 related to the practice of a health profession by a licensee, a
5 registrant, or an applicant for licensure or registration. The
6 department may hold hearings, administer oaths, and order rele-
7 vant testimony to be taken and shall report its findings to the
8 appropriate board or appropriate task force. ~~The~~ A board shall
9 proceed under section 16226 if the board finds that any of the
10 following grounds exist:

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

17 (b) Personal disqualifications, consisting of any of the
18 following:

19 (i) Incompetence.

20 (ii) Substance abuse as defined in section 6107.

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

24 (iv) Declaration of mental incompetence by a court of compe-
25 tent jurisdiction.

26 (v) Conviction of a misdemeanor or felony reasonably related
27 to and adversely affecting the licensee's ability to practice in

1 a safe and competent manner. A certified copy of the court
2 record ~~shall be~~ IS conclusive evidence of the conviction.

3 (vi) Lack of good moral character.

4 (vii) Conviction of a criminal offense under sections ~~520a~~
5 ~~to 520t~~ 520B TO 520G of the Michigan penal code, Act No. 328 of
6 the Public Acts of 1931, being sections ~~750.520a to 750.520t~~
7 750.520B TO 750.520G of the Michigan Compiled Laws. A certified
8 copy of the court record ~~shall be~~ IS conclusive evidence of the
9 conviction.

10 (viii) Conviction of a violation of section 492a of the
11 Michigan penal code, Act No. 328 of the Public Acts of 1931,
12 being section 750.492a of the Michigan Compiled Laws. A certi-
13 fied copy of the court record ~~shall be~~ IS conclusive evidence
14 of the conviction.

15 (ix) Conviction of a misdemeanor or felony involving fraud
16 in obtaining or attempting to obtain fees related to the practice
17 of a health profession. A certified copy of the court record
18 ~~shall be~~ IS conclusive evidence of the conviction.

19 (c) Prohibited acts, consisting of any of the following:

20 (i) Fraud or deceit in obtaining or renewing a license.

21 (ii) Permitting the license to be used by an unauthorized
22 person.

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

24 (iv) Obtaining, possessing, or attempting to obtain or pos-
25 sess a controlled substance as defined in section 7104 or a drug
26 as defined in section 7105 without lawful authority; or selling,

1 prescribing, giving away, or administering drugs for other than
2 lawful diagnostic or therapeutic purposes.

3 (d) Unethical business practices, consisting of any of the
4 following:

5 (i) False or misleading advertising.

6 (ii) Dividing fees for referral of patients or accepting
7 kickbacks on medical or surgical services, appliances, or medica-
8 tions purchased by or ~~in~~ ON behalf of patients.

9 (iii) Fraud or deceit in obtaining or attempting to obtain
10 third party reimbursement.

11 (e) Unprofessional conduct, consisting of any of the
12 following:

13 (i) Misrepresentation to a consumer or patient or in obtain-
14 ing or attempting to obtain third party reimbursement in the
15 course of professional practice.

16 (ii) Betrayal of a professional confidence.

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

19 (iv) Directing or requiring an individual to purchase or
20 secure a drug, device, treatment, procedure, or service from
21 another person, place, facility, or business in which the
22 licensee has a financial interest.

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

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

1 (h) Failure to comply with a subpoena issued pursuant to
2 this part.

3 (i) Failure to pay an installment of an assessment levied
4 pursuant to section 2504 of the insurance code of 1956, Act
5 No. 218 of the Public Acts of 1956, as amended, being section
6 500.2504 of the Michigan Compiled Laws, within 60 days after
7 notice by the appropriate board.

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

9 (K) INTENTIONAL FAILURE TO TIMELY PROVIDE DATA ON PATIENT
10 REVENUES REQUESTED BY THE MICHIGAN HEALTH CARE DATA SUBCOMMITTEE
11 OR THE STATE HEALTH COMMISSION UNDER THE MICHIGAN HEALTH ACCESS
12 PROGRAM ACT.

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

17 <u>Violations of Section 16221</u>	<u>Sanctions</u>
18 Subdivision (a),	Probation, limitation, denial,
19 (b)(ii),	suspension, revocation,
20 (b)(iv),	restitution, or fine.
21 (b)(vi), or	
22 (b)(vii)	
23 Subdivision (b)(viii)	Revocation.
24 Subdivision (b)(i),	Limitation, suspension,
25 (b)(iii),	revocation, denial,

1	(b)(v), or (b)(ix)	probation, restitution, or
2		fine.
3	Subdivision (c)(i)	Denial, revocation, suspension,
4		probation, limitation, or
5		fine.
6	Subdivision (c)(ii)	Denial, suspension, revocation,
7		restitution, or fine.
8	Subdivision (c)(iii)	Probation, denial, suspension,
9		revocation, restitution, or
10		fine.
11	Subdivision (c)(iv)	Fine, probation, denial,
12	or (d)(iii)	suspension, revocation,
13		or restitution.
14	Subdivision (d)(i)	Reprimand, fine, probation,
15	or (d)(ii)	or restitution.
16	Subdivision (e)(i)	Reprimand, fine, probation,
17		limitation, suspension, or
18		restitution.
19	Subdivision (e)(ii)	Reprimand, probation,
20	or (h)	suspension, restitution, or
21		fine.
22	Subdivision (e)(iii)	Reprimand, fine, probation,
23	or (e)(iv)	suspension, revocation, limita-
24		tion, or restitution.
25	Subdivision (f)	Reprimand or fine.
26	Subdivision (g) OR (K)	Reprimand, probation, denial,
27		suspension, revocation,

1 limitation, restitution, or
2 fine.

3 Subdivision (i) Suspension or fine.

4 Subdivision (j) Reprimand or fine.

5 (2) Determination of sanctions for violations under THIS
6 section ~~16226~~ shall be made by a board. If, during judicial
7 review, a court holds that a sanction is unlawful under section
8 106 of the administrative procedures act of 1969, Act No. 306 of
9 the Public Acts of 1969, being section 24.306 of the Michigan
10 Compiled Laws, the court shall state on the record the reasons
11 for the holding and may remand the case to the board for further
12 consideration.

13 (3) A board created under part 170 or 175 may impose a fine
14 of up to, but not exceeding, \$250,000.00 for a violation of
15 section 16221(a) or (b).

16 Sec. 20165. (1) Except as otherwise provided in this sec-
17 tion, after notice of intent to an applicant or licensee to deny,
18 limit, suspend, or revoke a license or certification and an
19 opportunity for a hearing, the department may deny, limit, sus-
20 pend, or revoke the license or certification if ~~any~~ 1 OR MORE
21 of the following exist:

22 (a) Fraud or deceit in obtaining or attempting to obtain a
23 license or certification or in operation of the licensed health
24 facility or agency.

25 (b) A violation of this article or the rules promulgated
26 under this article.

1 (c) False or misleading advertising.

2 (d) Negligence or failure to exercise due care, including
3 negligent supervision of employees and subordinates.

4 (e) Permitting a license or certificate to be used by an
5 unauthorized health facility or agency.

6 (f) Evidence of abuse regarding patient health, welfare, or
7 safety or a denial of rights.

8 (g) Failure to comply with section 10102a(7).

9 (h) Failure to comply with part 222 or a term, condition, or
10 stipulation of a certificate of need issued under part 222, or
11 both.

12 (I) INTENTIONAL FAILURE TO TIMELY PROVIDE DATA ON PATIENT
13 REVENUES REQUESTED BY THE MICHIGAN HEALTH CARE DATA SUBCOMMITTEE
14 OR THE STATE HEALTH COMMISSION UNDER THE MICHIGAN HEALTH ACCESS
15 PROGRAM ACT.

16 (2) An application for a license or certification may be
17 denied on a finding of any condition or practice which would con-
18 stitute a violation of this article if the applicant were a
19 licensee.

20 (3) Denial, suspension, or revocation of an individual emer-
21 gency medical services personnel license under part 209 is gov-
22 erned by section 20958.

23 Sec. 22241. (1) For purposes of this section and sections
24 22243 and 22245, "new technology" means medical equipment that
25 requires, but has not yet been granted, the approval of the fed-
26 eral food and drug administration for commercial use.

1 (2) ~~The~~ FOR PURPOSES OF THIS SUBSECTION, THE period ending
2 12 months after the date of federal food and drug administration
3 approval of new technology for commercial use ~~shall be~~
4 ~~considered~~ IS the new technology review period. A person shall
5 not acquire new technology before the end of a new technology
6 review period, unless 1 of the following occurs:

7 (a) The department, with the concurrence of the commission,
8 issues a public notice that the new technology will not be added
9 to the list of covered medical equipment during the new technol-
10 ogy review period. The notice may apply to specific new technol-
11 ogy or classes of new technology.

12 (b) The person complies with the requirements of section
13 22243.

14 (c) The commission approves the addition of the new technol-
15 ogy to the list of covered medical equipment, and the person
16 obtains a certificate of need for that covered medical
17 equipment.

18 (3) To assist in the identification of new medical technol-
19 ogy in the earliest possible stage of its development, the
20 department and the office shall appoint a standing new medical
21 technology advisory committee, composed of representatives of
22 health care provider organizations concerned with licensed health
23 facilities or licensed health professions and other persons
24 knowledgeable in medical technology.

25 (4) THE COMMISSION AND THE NEW MEDICAL TECHNOLOGY ADVISORY
26 COMMITTEE APPOINTED UNDER SUBSECTION (3) SHALL ADVISE AND ASSIST

1 THE STATE HEALTH COMMISSION CREATED UNDER THE MICHIGAN HEALTH
2 ACCESS PROGRAM ACT REGARDING NEW MEDICAL TECHNOLOGY.

3 Section 2. This amendatory act shall not take effect unless
4 Senate Bill No. _____ or House Bill No. 4741 (request
5 no. 03309'93) of the 87th Legislature is enacted into law.