

Act No. 379
Public Acts of 2016
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STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016

Introduced by Reps. Canfield, Bizon and Vaupel

ENROLLED HOUSE BILL No. 5533

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 7303a, 9701, 16221, 16226, 17001, 17021, 17048, 17049, 17050, 17060, 17074, 17076, 17078, 17501, 17521, 17548, 17549, 17550, 17708, 17745, 17745a, 17745b, 18001, 18021, 18048, 18049, 18050, and 20201 (MCL 333.7303a, 333.9701, 333.16221, 333.16226, 333.17001, 333.17021, 333.17048, 333.17049, 333.17050, 333.17060, 333.17074, 333.17076, 333.17078, 333.17501, 333.17521, 333.17548, 333.17549, 333.17550, 333.17708, 333.17745, 333.17745a, 333.17745b, 333.18001, 333.18021, 333.18048, 333.18049, 333.18050, and 333.20201), section 7303a as added by 1993 PA 305, section 9701 as added by 2004 PA 250, section 16221 as amended by 2014 PA 411, section 16226 as amended by 2014 PA 412, sections 17001, 17074, 17501, and 18001 as amended and section 18050 as added by 2006 PA 161, section 17021 as amended by 1993 PA 79, sections 17048 and 17548 as amended by 2012 PA 618, sections 17049, 17076, 17078, 17549, 18048, 18049, and 20201 as amended by 2011 PA 210, sections 17050 and 17550 as amended by 1990 PA 247, section 17060 as amended by 2014 PA 343, section 17521 as amended by 2006 PA 582, section 17708 as amended by 2016 PA 49, section 17745 as amended by 2014 PA 525, section 17745a as amended by 1999 PA 190, section 17745b as added by 1993 PA 306, and section 18021 as amended by 2006 PA 391, and by adding sections 17047, 17547, 18047, 18051, and 20174; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 7303a. (1) A prescriber who holds a controlled substances license may administer or dispense a controlled substance listed in schedules 2 to 5 without a separate controlled substances license for those activities.

(2) Before prescribing or dispensing a controlled substance to a patient, a licensed prescriber shall ask the patient about other controlled substances the patient may be using. The prescriber shall record the patient's response in the patient's medical or clinical record.

(3) A licensed prescriber who dispenses controlled substances shall maintain all of the following records separately from other prescription records:

(a) All invoices and other acquisition records for each controlled substance acquired by the prescriber for not less than 5 years after the date the prescriber acquires the controlled substance.

(b) A log of all controlled substances dispensed by the prescriber for not less than 5 years after the date the controlled substance is dispensed.

(c) Records of all other dispositions of controlled substances under the licensee's control for not less than 5 years after the date of the disposition.

(4) The requirement under section 7303 for a license is waived in the following circumstances:

(a) When a controlled substance listed in schedules 2 to 5 is administered on the order of a licensed prescriber by an individual who is licensed under article 15 as a practical nurse or a registered professional nurse.

(b) When methadone or a methadone congener is dispensed on the order of a licensed prescriber in a methadone treatment program licensed under article 6 or when a controlled substance listed in schedules 2 to 5 is dispensed on the order of a licensed prescriber in a hospice rendering emergency care services in a patient's home as described in section 17746 by a registered professional nurse licensed under article 15.

Sec. 9701. As used in this part:

(a) "Committee" means the Michigan pharmacy and therapeutics committee established by Executive Order No. 2001-8 and by section 9705.

(b) "Controlled substance" means that term as defined in section 7104.

(c) "Drug" means that term as defined in section 17703.

(d) "Initiative" means the pharmaceutical best practices initiative established by this part.

(e) "Medicaid" means the program of medical assistance established under title XIX of the social security act, 42 USC 1396 to 1396w-5.

(f) "Pharmacist" means that term as defined in section 17707.

(g) "Physician" means that term as defined in sections 17001 and 17501.

(h) "Prescriber" means that term as defined in section 17708.

(i) "Prescription" means that term as defined in section 17708.

(j) "Prescription drug" means that term as defined in section 17708.

(k) "Type II transfer" means that term as defined in section 3 of the executive organization act of 1965, 1965 PA 380, MCL 16.103.

Sec. 16221. The department shall investigate any allegation that 1 or more of the grounds for disciplinary subcommittee action under this section exist, and may investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The department may hold hearings, administer oaths, and order the taking of relevant testimony. After its investigation, the department shall provide a copy of the administrative complaint to the appropriate disciplinary subcommittee. The disciplinary subcommittee shall proceed under section 16226 if it finds that 1 or more of the following grounds exist:

(a) Except as otherwise specifically provided in this section, a violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, or any conduct, practice, or condition that impairs, or may impair, the ability to safely and skillfully engage in the practice of the health profession.

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

(i) Incompetence.

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

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

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

(v) Conviction of a misdemeanor punishable by imprisonment for a maximum term of 2 years; conviction of a misdemeanor involving the illegal delivery, possession, or use of a controlled substance; or conviction of any felony other

than a felony listed or described in another subparagraph of this subdivision. A certified copy of the court record is conclusive evidence of the conviction.

(vi) Lack of good moral character.

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

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

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

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

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

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

(xiii) Conviction of a criminal offense under section 83, 84, 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321, 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the court record is conclusive evidence of the conviction.

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

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

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

(iii) Practice outside the scope of a license.

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

(d) Except as otherwise specifically provided in this section, unethical business practices, consisting of 1 or more of the following:

(i) False or misleading advertising.

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

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

(e) Except as otherwise specifically provided in this section, unprofessional conduct, consisting of 1 or more of the following:

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

(ii) Betrayal of a professional confidence.

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

(iv) Either of the following:

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

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

42 USC 1395nn and the regulations promulgated under that section and “physician” means that term as defined in sections 17001 and 17501.

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

(vi) Any conduct by a health professional with a patient while he or she is acting within the health profession for which he or she is licensed or registered, including conduct initiated by a patient or to which the patient consents, that is sexual or may reasonably be interpreted as sexual, including, but not limited to, sexual intercourse, kissing in a sexual manner, or touching of a body part for any purpose other than appropriate examination, treatment, or comfort.

(vii) Offering to provide practice-related services, such as drugs, in exchange for sexual favors.

(f) Failure to notify under section 16222(3) or (4).

(g) Failure to report a change of name or mailing address as required in section 16192.

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

(i) Failure to comply with a subpoena issued pursuant to this part, failure to respond to a complaint issued under this article, article 7, or article 8, failure to appear at a compliance conference or an administrative hearing, or failure to report under section 16222(1) or 16223.

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

(k) A violation of section 17013 or 17513.

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

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

(n) A violation of section 17016 or 17516.

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

(p) A violation of section 5654 or 5655.

(q) A violation of section 16274.

(r) A violation of section 17020 or 17520.

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

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

(u) Failure to comply with the terms of a practice agreement described in section 17047(2)(a) or (b), 17547(2)(a) or (b), or 18047(2)(a) or (b).

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

Violations of Section 16221

Sanctions

Subdivision (a), (b)(i), (b)(ii), (b)(iii), (b)(iv), (b)(v), (b)(vi), (b)(vii), (b)(ix), (b)(x), (b)(xi), or (b)(xii)

Probation, limitation, denial, suspension, revocation, permanent revocation, restitution, or fine.

Subdivision (b)(viii)

Revocation, permanent revocation, or denial.

Subdivision (b)(xiii)

Permanent revocation for a violation described in subsection (5); otherwise, probation, limitation, denial, suspension, revocation, restitution, or fine.

Subdivision (c)(i)

Denial, revocation, suspension, probation, limitation, or fine.

Subdivision (c)(ii)

Denial, suspension, revocation, restitution, or fine.

Subdivision (c)(iii)

Probation, denial, suspension, revocation, restitution, or fine.

Subdivision (c)(iv) or (d)(iii)

Fine, probation, denial, suspension, revocation, permanent revocation, or restitution.

Subdivision (d)(i) or (d)(ii)

Reprimand, fine, probation, denial, or restitution.

Subdivision (e)(i), (e)(iii), (e)(iv), (e)(v), (h), or (s)	Reprimand, fine, probation, limitation, suspension, revocation, permanent revocation, denial, or restitution.
Subdivision (e)(ii) or (i)	Reprimand, probation, suspension, revocation, permanent revocation, restitution, denial, or fine.
Subdivision (e)(vi) or (e)(vii)	Probation, suspension, revocation, limitation, denial, restitution, or fine.
Subdivision (f)	Reprimand, denial, limitation, probation, or fine.
Subdivision (g)	Reprimand or fine.
Subdivision (j)	Suspension or fine.
Subdivision (k), (p), or (r)	Reprimand, probation, suspension, revocation, permanent revocation, or fine.
Subdivision (l)	Reprimand, denial, or limitation.
Subdivision (m) or (o)	Denial, revocation, restitution, probation, suspension, limitation, reprimand, or fine.
Subdivision (n)	Revocation or denial.
Subdivision (q)	Revocation.
Subdivision (t)	Revocation, permanent revocation, fine, or restitution.
Subdivision (u)	Denial, revocation, probation, suspension, limitation, reprimand, or fine.

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

(3) A disciplinary subcommittee may impose a fine in an amount that does not exceed \$250,000.00 for a violation of section 16221(a) or (b). A disciplinary subcommittee shall impose a fine of at least \$25,000.00 if the violation of section 16221(a) or (b) results in the death of 1 or more patients.

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

(5) A disciplinary subcommittee shall impose the sanction of permanent revocation for a violation of section 16221(b)(viii) if the violation occurred while the licensee or registrant was acting within the health profession for which he or she was licensed or registered.

(6) Except as otherwise provided in subsection (5), a disciplinary subcommittee shall not impose the sanction of permanent revocation under this section without a finding that the licensee or registrant engaged in a pattern of intentional acts of fraud or deceit resulting in personal financial gain to the licensee or registrant and harm to the health of patients under the licensee's or registrant's care.

Sec. 17001. (1) As used in this part:

(a) "Academic institution" means either of the following:

(i) A medical school approved by the board.

(ii) A hospital licensed under article 17 that meets all of the following requirements:

(A) Was the sole sponsor or a co-sponsor, if each other co-sponsor is either a medical school approved by the board or a hospital owned by the federal government and directly operated by the United States Department of Veterans Affairs, of not less than 4 postgraduate education residency programs approved by the board under section 17031(1) for not less than the 3 years immediately preceding the date of an application for a limited license under section 16182(2)(c) or an application for a full license under section 17031(2), if at least 1 of the residency programs is in the specialty area of medical practice, or in a specialty area that includes the subspecialty of medical practice, in which the applicant for a limited license proposes to practice or in which the applicant for a full license has practiced for the hospital.

(B) Has spent not less than \$2,000,000.00 for medical education during each of the 3 years immediately preceding the date of an application for a limited license under section 16182(2)(c) or an application for a full license under section 17031(2). As used in this sub-subparagraph, "medical education" means the education of physicians and candidates

for degrees or licenses to become physicians, including, but not limited to, physician staff, residents, interns, and medical students.

(b) “Electrodiagnostic studies” means the testing of neuromuscular functions utilizing nerve conduction tests and needle electromyography. It does not include the use of surface electromyography.

(c) “Medical care services” means those services within the scope of practice of physicians licensed by the board, except those services that the board prohibits or otherwise restricts within a practice agreement or determines shall not be delegated by a physician without endangering the health and safety of patients as provided for in section 17048(1).

(d) “Participating physician” means a physician, a physician designated by a group of physicians under section 17049 to represent that group, or a physician designated by a health facility or agency under section 20174 to represent that health facility or agency.

(e) “Physician” means an individual who is licensed under this article to engage in the practice of medicine.

(f) “Podiatrist” means an individual who is licensed under this article to engage in the practice of podiatric medicine and surgery.

(g) “Practice agreement” means an agreement described in section 17047.

(h) “Practice of medicine” means the diagnosis, treatment, prevention, cure, or relieving of a human disease, ailment, defect, complaint, or other physical or mental condition, by attendance, advice, device, diagnostic test, or other means, or offering, undertaking, attempting to do, or holding oneself out as able to do, any of these acts.

(i) “Practice as a physician’s assistant” means the practice of medicine with a participating physician under a practice agreement.

(j) “Task force” means the joint task force created in section 17025.

(2) In addition to the definitions in this part, article 1 contains definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

Sec. 17021. (1) The Michigan board of medicine is created in the department and consists of the following 19 voting members who shall meet the requirements of part 161: 10 physicians, 1 physician’s assistant, and 8 public members.

(2) The requirement of section 16135(1)(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived until September 30, 1980 for members of the board licensed in a health profession subfield created under this part.

(3) Except as otherwise provided in this article, the board of medicine shall not have the powers and duties vested in the task force by sections 17060 to 17084.

Sec. 17047. (1) A physician’s assistant shall not engage in the practice as a physician’s assistant except under the terms of a practice agreement that meets the requirements of this section.

(2) A practice agreement must include all of the following:

(a) A process between the physician’s assistant and participating physician for communication, availability, and decision making when providing medical treatment to a patient. The process must utilize the knowledge and skills of the physician’s assistant and participating physician based on their education, training, and experience.

(b) A protocol for designating an alternative physician for consultation in situations in which the participating physician is not available for consultation.

(c) The signature of the physician’s assistant and the participating physician.

(d) A termination provision that allows the physician’s assistant or participating physician to terminate the practice agreement by providing written notice at least 30 days before the date of termination.

(e) Subject to section 17048, the duties and responsibilities of the physician’s assistant and participating physician. The practice agreement shall not include as a duty or responsibility of the physician’s assistant or participating physician an act, task, or function that the physician’s assistant or participating physician is not qualified to perform by education, training, or experience and that is not within the scope of the license held by the physician’s assistant or participating physician.

(f) A requirement that the participating physician verify the physician’s assistant’s credentials.

(3) The number of physician’s assistants in a practice agreement with a participating physician and the number of individuals to whom a physician has delegated the authority to perform acts, tasks, or functions are subject to section 16221.

Sec. 17048. (1) Except for a medical care service within a practice agreement, to the extent that a particular selected medical care service requires extensive medical training, education, or ability or poses serious risks to the health and safety of patients, the board may prohibit or otherwise restrict the delegation of that medical care service or may require higher levels of supervision. To the extent that a particular medical care service requires extensive training,

education, or ability or poses serious risks to the health or safety of patients, the board may prohibit or otherwise restrict that medical care service within a practice agreement.

(2) For purposes of section 17076(2) and (3), the department, in consultation with the board, may promulgate rules concerning the prescribing of drugs by a physician's assistant. Subject to section 17076, the rules may define the drugs or classes of drugs that a physician's assistant may not prescribe and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws.

(3) Beginning on July 19, 2010, if 1 or more individuals licensed under part 170 to engage in the practice of medicine, licensed under part 175 to engage in the practice of osteopathic medicine and surgery, or licensed under part 180 to engage in the practice of podiatric medicine and surgery, and 1 or more physician's assistants organize a professional service corporation under section 4 of former 1962 PA 192, a professional corporation under section 284 of the business corporation act, 1972 PA 284, MCL 450.1284, or a professional limited liability company under section 904 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4904, the physicians who are parties to a practice agreement with the physician's assistants shall be shareholders in the same professional service corporation or professional corporation or members in the same professional limited liability company as the physician's assistants and shall meet all of the applicable requirements of part 170, 175, or 180. If 1 or more physician's assistants organized a professional service corporation under section 4 of former 1962 PA 192, a professional corporation under section 284 of the business corporation act, 1972 PA 284, MCL 450.1284, or a professional limited liability company under section 904 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4904, before July 19, 2010 that has only physician's assistants as shareholders or members, the physicians who are parties to a practice agreement with the physician's assistants shall meet all of the applicable requirements of part 170, 175, or 180.

(4) In addition to the requirements of section 17068 and beginning on July 19, 2010, the department shall include on the form used for renewal of licensure a space for a physician's assistant to disclose whether he or she is a shareholder in a professional service corporation under section 4 of former 1962 PA 192, or a member in a professional limited liability company under section 904 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4904, that was organized before July 19, 2010. A physician's assistant who is a shareholder in a professional service corporation or a member in a professional limited liability company described in this subsection shall disclose all of the following in the form used for renewal of licensure provided by the department:

(a) Whether any individuals licensed under part 170 to engage in the practice of medicine, licensed under part 175 to engage in the practice of osteopathic medicine and surgery, or licensed under part 180 to engage in the practice of podiatric medicine and surgery are shareholders in the professional service corporation or members in the professional limited liability company.

(b) The name and license number of the individual licensed under part 170 to engage in the practice of medicine, licensed under part 175 to engage in the practice of osteopathic medicine and surgery, or licensed under part 180 to engage in the practice of podiatric medicine and surgery who is a party to a practice agreement with the physician's assistant.

(c) Whether the individual licensed under part 170 to engage in the practice of medicine, licensed under part 175 to engage in the practice of osteopathic medicine and surgery, or licensed under part 180 to engage in the practice of podiatric medicine and surgery disclosed in subdivision (b) is a shareholder in the same professional service corporation or member in a professional limited liability company as the physician's assistant.

Sec. 17049. (1) A group of physicians practicing other than as sole practitioners may designate 1 or more physicians in the group to enter into a practice agreement under section 17047.

(2) Notwithstanding any law or rule to the contrary, a physician is not required to countersign orders written in a patient's clinical record by a physician's assistant with whom the physician has a practice agreement. Notwithstanding any law or rule to the contrary, a physician is not required to sign an official form that lists the physician's signature as the required signatory if that official form is signed by a physician's assistant with whom the physician has a practice agreement.

Sec. 17050. In addition to its other powers and duties under this article, the board may prohibit a physician or a physician's assistant from entering into a practice agreement for any of the grounds set forth in section 16221.

Sec. 17060. The department, in consultation with the task force, shall do all of the following:

(a) Promulgate rules necessary for the implementation of its powers and duties under this part and may perform the acts and make the determinations necessary for the proper implementations of those powers and duties.

(b) Promulgate rules to establish the requirements for the education, training, or experience of physician's assistants for licensure in this state. The requirements must take into account nationally recognized standards for education, training, and experience and the desired utilization of physician's assistants. By January 14, 2017, the rules must include training standards for identifying victims of human trafficking. The training standards for identifying victims of human trafficking must apply for a physician's assistant license or registration renewal beginning with the first renewal cycle

after the rules are promulgated and for an initial license or registration issued 5 or more years after the rules are promulgated.

(c) Grant licenses to applicants who meet the requirements of this part and the rules promulgated under this part for practice and use of the title of physician's assistant.

(d) Promulgate rules to establish criteria for the evaluation of programs for the education and training of physician's assistants for the purpose of determining whether graduates of the programs have the knowledge and skills requisite for practice and use of the title physician's assistant in this state as defined by this part and the rules promulgated under this part. The criteria established must be substantially consistent with nationally recognized standards for the education and training of physician's assistants. Until the criteria are established, the criteria developed by the advisory commission on physician's assistants shall remain in effect. The department shall consider and may use where appropriate the criteria established by professional associations, education accrediting bodies, or governmental agencies. In establishing criteria for the evaluation of education and training programs, the department may seek the advice of the boards and the department of education.

Sec. 17074. (1) A physician's assistant shall not undertake or represent that he or she is qualified to undertake provision of a medical care service that he or she knows or reasonably should know to be outside his or her competence or is prohibited by law.

(2) A physician's assistant shall not:

(a) Perform acts, tasks, or functions to determine the refractive state of a human eye or to treat refractive anomalies of the human eye, or both.

(b) Determine the spectacle or contact lens prescription specifications required to treat refractive anomalies of the human eye, or determine modification of spectacle or contact lens prescription specifications, or both.

(3) A physician's assistant may perform routine visual screening or testing, postoperative care, or assistance in the care of medical diseases of the eye under a practice agreement.

Sec. 17076. (1) A physician's assistant may make calls or go on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities in accordance with a practice agreement. Notwithstanding any law or rule to the contrary, a physician's assistant may make calls or go on rounds as provided in this subsection without restrictions on the time or frequency of visits by a physician or the physician's assistant.

(2) A physician's assistant who is a party to a practice agreement may prescribe a drug in accordance with procedures and protocols for the prescription established by rule of the department in consultation with the appropriate board. A physician's assistant may prescribe a drug, including a controlled substance that is included in schedules 2 to 5 of part 72. If a physician's assistant prescribes a drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that prescription. If a physician's assistant prescribes a drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that prescription.

(3) A physician's assistant may order, receive, and dispense complimentary starter dose drugs, including controlled substances that are included in schedules 2 to 5 of part 72. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. As used in this subsection, "complimentary starter dose" means that term as defined in section 17745. It is the intent of the legislature in enacting this subsection to allow a pharmaceutical manufacturer or wholesale distributor, as those terms are defined in part 177, to distribute complimentary starter dose drugs to a physician's assistant, as described in this subsection, in compliance with section 503(d) of the federal food, drug, and cosmetic act, 21 USC 353.

Sec. 17078. A physician's assistant shall conform to minimal standards of acceptable and prevailing practice under this part, part 175, or part 180, as applicable.

Sec. 17501. (1) As used in this part:

(a) "Electrodiagnostic studies" means the testing of neuromuscular functions utilizing nerve conduction tests and needle electromyography. It does not include the use of surface electromyography.

(b) "Medical care services" means those services within the scope of practice of physicians licensed and approved by the board, except those services that the board prohibits or otherwise restricts within a practice agreement or determines shall not be delegated by a physician without endangering the health and safety of patients as provided for in section 17548(1).

(c) "Participating physician" means a physician, a physician designated by a group of physicians under section 17549 to represent that group, or a physician designated by a health facility or agency under section 20174 to represent that health facility or agency.

(d) "Physician" means an individual who is licensed under this article to engage in the practice of osteopathic medicine and surgery.

(e) "Practice agreement" means an agreement described in section 17547.

(f) "Practice of osteopathic medicine and surgery" means a separate, complete, and independent school of medicine and surgery utilizing full methods of diagnosis and treatment in physical and mental health and disease, including the prescription and administration of drugs and biologicals, operative surgery, obstetrics, radiological and other electromagnetic emissions, and placing special emphasis on the interrelationship of the musculoskeletal system to other body systems.

(g) "Practice as a physician's assistant" means the practice of osteopathic medicine and surgery with a participating physician under a practice agreement.

(h) "Task force" means the joint task force created in section 17025.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in the code and part 161 contains definitions applicable to this part.

Sec. 17521. (1) The Michigan board of osteopathic medicine and surgery is created in the department and consists of the following 11 voting members who shall meet the requirements of part 161: 7 physicians, 1 physician's assistant, and 3 public members.

(2) The requirement of section 16135(1)(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived until September 30, 1980 for members of the board who are licensed in a health profession subfield created under this part.

(3) Except as otherwise provided in this article, the Michigan board of osteopathic medicine and surgery does not have the powers and duties vested in the task force by sections 17060 to 17084.

Sec. 17547. (1) A physician's assistant shall not engage in the practice as a physician's assistant except under the terms of a practice agreement that meets the requirements of this section.

(2) A practice agreement must include all of the following:

(a) A process between the physician's assistant and participating physician for communication, availability, and decision making when providing medical treatment to a patient. The process must utilize the knowledge and skills of the physician's assistant and participating physician based on their education, training, and experience.

(b) A protocol for designating an alternative physician for consultation in situations in which the participating physician is not available for consultation.

(c) The signatures of the physician's assistant and the participating physician.

(d) A termination provision that allows the physician's assistant or participating physician to terminate the practice agreement by providing written notice at least 30 days before the date of termination.

(e) Subject to section 17548, the duties and responsibilities of the physician's assistant and participating physician. The practice agreement shall not include as a duty or responsibility of the physician's assistant or participating physician an act, task, or function that the physician's assistant or participating physician is not qualified to perform by education, training, or experience and that is not within the scope of the license held by the physician's assistant or participating physician.

(f) A requirement that the participating physician verify the physician's assistant's credentials.

(3) The number of physician's assistants in a practice agreement with a participating physician and the number of individuals to whom a physician has delegated the authority to perform acts, tasks, or functions are subject to section 16221.

Sec. 17548. (1) Except for a medical care service within a practice agreement, to the extent that a particular selected medical care service requires extensive medical training, education, or ability or pose serious risks to the health and safety of patients, the board may prohibit or otherwise restrict the delegation of that medical care service or may require higher levels of supervision. To the extent that a particular medical care service requires extensive training, education, or ability or poses serious risks to the health or safety of patients, the board may prohibit or otherwise restrict that medical care service within a practice agreement.

(2) A physician's assistant may make calls or go on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities in accordance with a practice agreement. Notwithstanding any law or rule to the

contrary, a physician's assistant may make calls or go on rounds as provided in this subsection without restrictions on the time or frequency of visits by a physician or the physician's assistant.

(3) For purposes of subsection (4), the department, in consultation with the board, may promulgate rules concerning the prescribing of drugs by a physician's assistant. Subject to subsection (4), the rules may define the drugs or classes of drugs that a physician's assistant may not prescribe and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws.

(4) A physician's assistant who is a party to a practice agreement may prescribe a drug in accordance with procedures and protocols for the prescription established by rule of the department in consultation with the appropriate board. A physician's assistant may prescribe a drug, including a controlled substance that is included in schedules 2 to 5 of part 72. If a physician's assistant prescribes a drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that prescription. If a physician's assistant prescribes a drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that prescription.

(5) A physician's assistant may order, receive, and dispense complimentary starter dose drugs including controlled substances that are included in schedules 2 to 5 of part 72. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. As used in this subsection, "complimentary starter dose" means that term as defined in section 17745. It is the intent of the legislature in enacting this subsection to allow a pharmaceutical manufacturer or wholesale distributor, as those terms are defined in part 177, to distribute complimentary starter dose drugs to a physician's assistant, as described in this subsection, in compliance with section 503(d) of the federal food, drug, and cosmetic act, 21 USC 353.

Sec. 17549. (1) A group of physicians practicing other than as sole practitioners may designate 1 or more physicians in the group to enter into a practice agreement under section 17547.

(2) Notwithstanding any law or rule to the contrary, a physician is not required to countersign orders written in a patient's clinical record by a physician's assistant with whom the physician has a practice agreement. Notwithstanding any law or rule to the contrary, a physician is not required to sign an official form that lists the physician's signature as the required signatory if that official form is signed by a physician's assistant with whom the physician has a practice agreement.

Sec. 17550. In addition to its other powers and duties under this article, the board may prohibit a physician or a physician's assistant from entering into a practice agreement for any of the grounds set forth in section 16221.

Sec. 17708. (1) "Preceptor" means a pharmacist approved by the board to direct the training of an intern in an approved pharmacy.

(2) "Prescriber" means a licensed dentist, a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, a licensed doctor of podiatric medicine and surgery, a licensed physician's assistant, a licensed optometrist certified under part 174 to administer and prescribe therapeutic pharmaceutical agents, a licensed veterinarian, or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery.

(3) "Prescription" means an order by a prescriber to fill, compound, or dispense a drug or device written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication. An order transmitted in other than written or hard-copy form must be electronically recorded, printed, or written and immediately dated by the pharmacist, and that record constitutes the original prescription. In a health facility or agency licensed under article 17 or other medical institution, an order for a drug or device in the patient's chart constitutes for the purposes of this definition the original prescription. Subject to section 17751(2) and (5), prescription includes, but is not limited to, an order for a drug, not including a controlled substance except under circumstances described in section 17763(e), written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a physician prescriber, dentist prescriber, or veterinarian prescriber licensed to practice dentistry, medicine, osteopathic medicine and surgery, or veterinary medicine in another state.

(4) "Prescription drug" means a drug to which 1 or more of the following apply:

(a) The drug is dispensed pursuant to a prescription.

(b) The drug bears the federal legend "CAUTION: federal law prohibits dispensing without prescription" or "Rx only".

(c) The drug is designated by the board as a drug that may only be dispensed pursuant to a prescription.

Sec. 17745. (1) Except as otherwise provided in this subsection, a prescriber who wishes to dispense prescription drugs shall obtain from the board a drug control license for each location in which the storage and dispensing of prescription drugs occur. A drug control license is not necessary if the dispensing occurs in the emergency department, emergency room, or trauma center of a hospital licensed under article 17 or if the dispensing involves only the issuance of complimentary starter dose drugs.

(2) Except as otherwise authorized for expedited partner therapy in section 5110 or as provided in section 17744a or 17744b, a dispensing prescriber shall dispense prescription drugs only to his or her own patients.

(3) A dispensing prescriber shall include in a patient's chart or clinical record a complete record, including prescription drug names, dosages, and quantities, of all prescription drugs dispensed directly by the dispensing prescriber or indirectly under his or her delegatory authority. If prescription drugs are dispensed under the prescriber's delegatory authority, the delegatee who dispenses the prescription drugs shall initial the patient's chart, clinical record, or log of prescription drugs dispensed. In a patient's chart or clinical record, a dispensing prescriber shall distinguish between prescription drugs dispensed to the patient, prescription drugs prescribed for the patient, prescription drugs dispensed or prescribed for expedited partner therapy as authorized in section 5110, and prescription drugs dispensed or prescribed as authorized under section 17744a or 17744b. A dispensing prescriber shall retain information required under this subsection for not less than 5 years after the information is entered in the patient's chart or clinical record.

(4) A dispensing prescriber shall store prescription drugs under conditions that will maintain their stability, integrity, and effectiveness and will ensure that the prescription drugs are free of contamination, deterioration, and adulteration.

(5) A dispensing prescriber shall store prescription drugs in a substantially constructed, securely lockable cabinet. Access to the cabinet must be limited to individuals authorized to dispense prescription drugs in compliance with this part and article 7.

(6) Unless otherwise requested by a patient, a dispensing prescriber shall dispense a prescription drug in a safety closure container that complies with the poison prevention packaging act of 1970, 15 USC 1471 to 1477.

(7) A dispensing prescriber shall dispense a drug in a container that bears a label containing all of the following information:

- (a) The name and address of the location from which the prescription drug is dispensed.
- (b) Except as otherwise authorized under section 5110, 17744a, or 17744b, the patient's name and record number.
- (c) The date the prescription drug was dispensed.
- (d) The prescriber's name or, if dispensed under the prescriber's delegatory authority, the name of the delegatee.
- (e) The directions for use.
- (f) The name and strength of the prescription drug.
- (g) The quantity dispensed.
- (h) The expiration date of the prescription drug or the statement required under section 17756.

(8) A dispensing prescriber who dispenses a complimentary starter dose drug to a patient shall give the patient the information required in this subsection, by dispensing the complimentary starter dose drug to the patient in a container that bears a label containing the required information or by giving the patient a written document that may include, but is not limited to, a preprinted insert that comes with the complimentary starter dose drug and that contains the required information. The information required to be given to the patient under this subsection includes all of the following:

- (a) The name and strength of the complimentary starter dose drug.
- (b) Directions for the patient's use of the complimentary starter dose drug.
- (c) The expiration date of the complimentary starter dose drug or the statement required under section 17756.

(9) The information required under subsection (8) is in addition to, and does not supersede or modify, other state or federal law regulating the labeling of prescription drugs.

(10) In addition to meeting the requirements of this part, a dispensing prescriber who dispenses controlled substances shall comply with section 7303a.

(11) The board may periodically inspect locations from which prescription drugs are dispensed.

(12) The act, task, or function of dispensing prescription drugs shall be delegated only as provided in this part and sections 16215, 17048, 17212, and 17548.

(13) A supervising physician may delegate in writing to a pharmacist practicing in a hospital pharmacy within a hospital licensed under article 17 the receipt of complimentary starter dose drugs other than controlled substances as defined by article 7 or federal law. When the delegated receipt of complimentary starter dose drugs occurs, both the pharmacist's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each receipt. A pharmacist described in this subsection may dispense a prescription for complimentary starter dose drugs written or transmitted by facsimile, electronic transmission, or other means of communication by a prescriber.

(14) As used in this section, “complimentary starter dose” means a prescription drug packaged, dispensed, and distributed in accordance with state and federal law that is provided to a dispensing prescriber free of charge by a manufacturer or distributor and dispensed free of charge by the dispensing prescriber to his or her patients.

Sec. 17745a. (1) As used in this section:

(a) “Medicaid” means the program of medical assistance established under title XIX of the social security act, 42 USC 1396 to 1396w-5.

(b) “Medicare” means the federal Medicare program established under title XVIII of the social security act, 42 USC 1395 to 1395lll.

(c) “Public health program” means 1 of the following:

(i) A local health department.

(ii) A migrant health center or a community health center as defined under 42 USC 254b and 254c.

(iii) A family planning program designated by the department of health and human services as a provider type 23 under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, and verified by the department of health and human services.

(iv) A methadone treatment program licensed under article 6.

(v) A rural health clinic.

(vi) A hospice rendering emergency care services in a patient’s home as described in section 17746.

(d) “Rural health clinic” means a rural health clinic as defined in section 42 USC 1395x that is certified to participate in Medicaid and Medicare.

(2) Except as otherwise provided in subsections (3) and (4), in a public health program without an on-site pharmacy, a dispensing prescriber may delegate the dispensing of prescription drugs only to a registered professional nurse licensed under part 172.

(3) In a public health program without an on-site pharmacy, a dispensing prescriber may delegate the delivery of prescription drugs consisting only of pre-labeled, prepackaged oral contraceptives under the following circumstances:

(a) The delivery is delegated to an appropriately trained individual.

(b) The delivery is performed pursuant to specific, written protocols.

(4) In a methadone treatment program licensed under article 6 without an on-site pharmacy, a dispensing prescriber may delegate the delivery of a prescription drug consisting only of 1 or more single doses of methadone, up to the maximum number of single doses allowed by law, to a registered client of the methadone treatment program, if all of the following requirements are met:

(a) The delivery is delegated to a registered professional nurse or a licensed practical nurse licensed under part 172.

(b) The delivery is performed pursuant to specific, written protocols.

(c) The prescription drug described in this subsection is labeled in accordance with section 17745.

Sec. 17745b. (1) Subject to subsection (3), in an industrial clinic or other prescriber practice location without an on-site pharmacy, a dispensing prescriber may delegate the dispensing of prescription drugs only to a registered professional nurse licensed under part 172.

(2) In an industrial clinic or other prescriber practice location without an on-site pharmacy, if a dispensing prescriber does not delegate the dispensing of a prescription drug, the dispensing prescriber shall do both of the following:

(a) Be physically present at the time the prescription drug is dispensed.

(b) Immediately before the prescription drug is dispensed, perform a final inspection of the type of prescription drug, labeling, dosage, and amount of the prescription drug dispensed.

(3) A dispensing prescriber who delegates the dispensing of a prescription drug to a patient in an industrial clinic or other prescriber practice location without an on-site pharmacy shall not delegate the dispensing of more than a 72-hour supply of the prescription drug.

(4) Before dispensing a prescription drug to a patient in an industrial clinic or other prescriber practice location without an on-site pharmacy, a dispensing prescriber who intends to charge for dispensing the drug shall give a written prescription to the patient and shall instruct the patient that he or she may elect to have the prescription filled by the dispensing prescriber or the patient’s pharmacy of choice.

(5) If a dispensing prescriber intends to charge for dispensing a prescription drug to a patient in an industrial clinic or other prescriber practice location without an on-site pharmacy, the dispensing prescriber shall inform the patient of that fact before dispensing the prescription drug to the patient. The dispensing prescriber also shall list the charge for dispensing the prescription drug as a separate item on the patient’s bill.

(6) This section does not apply to public health programs as defined in section 17745a.

Sec. 18001. (1) As used in this part:

(a) “Medical care services” means those services within the scope of practice of podiatrists licensed by the board, except those services that the board prohibits or otherwise restricts within a practice agreement or determines shall not be delegated by a podiatrist without endangering the health and safety of patients as provided for in section 18048.

(b) “Participating podiatrist” means a podiatrist or a podiatrist designated by a group of podiatrists under section 18049 to represent that group.

(c) “Podiatrist” means a physician and surgeon licensed under this article to engage in the practice of podiatric medicine and surgery.

(d) “Practice agreement” means an agreement described in section 18047.

(e) “Practice as a physician’s assistant” means the practice of podiatric medicine and surgery with a participating podiatrist under a practice agreement.

(f) “Practice of podiatric medicine and surgery” means the examination, diagnosis, and treatment of abnormal nails, superficial excrescences occurring on the human hands and feet, including corns, warts, callosities, and bunions, and arch troubles or the treatment medically, surgically, mechanically, or by physiotherapy of ailments of human feet or ankles as they affect the condition of the feet. It does not include amputation of human feet, or the use or administration of anesthetics other than local.

(g) “Task force” means the joint task force created in section 17025.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

Sec. 18021. (1) The Michigan board of podiatric medicine and surgery is created in the department and consists of the following 9 voting members who shall meet the requirements of part 161: 5 podiatrists, 1 physician’s assistant, and 3 public members.

(2) Except as otherwise provided in this article, the board of podiatric medicine and surgery does not have the powers and duties vested in the task force by sections 17060 to 17084.

(3) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

Sec. 18047. (1) A physician’s assistant shall not engage in the practice as a physician’s assistant except under the terms of a practice agreement that meets the requirements of this section.

(2) A practice agreement must include all of the following:

(a) A process between the physician’s assistant and participating podiatrist for communication, availability, and decision making when providing medical treatment to a patient. The process must utilize the knowledge and skills of the physician’s assistant and participating podiatrist based on their education, training, and experience.

(b) A protocol for designating an alternative podiatrist for consultation in situations in which the participating podiatrist is not available for consultation.

(c) The signature of the physician’s assistant and the participating podiatrist.

(d) A termination provision that allows the physician’s assistant or participating podiatrist to terminate the practice agreement by providing written notice at least 30 days before the date of termination.

(e) Subject to section 18048, the duties and responsibilities of the physician’s assistant and participating podiatrist. The practice agreement shall not include as a duty or responsibility of the physician’s assistant or participating podiatrist an act, task, or function that the physician’s assistant or participating podiatrist is not qualified to perform by education, training, or experience and that is not within the scope of the license held by the physician’s assistant or participating podiatrist.

(f) A requirement that the participating podiatrist verify the physician’s assistant’s credentials.

(3) The number of physician’s assistants in a practice agreement with a participating podiatrist and the number of individuals to whom a podiatrist has delegated the authority to perform acts, tasks, or functions are subject to section 16221.

Sec. 18048. Except for a medical care service within a practice agreement, to the extent that a particular selected medical care service requires extensive training, education, or ability or poses serious risks to the health or safety of patients, the board may prohibit or otherwise restrict the delegation of that medical care service or may require higher levels of supervision. To the extent that a particular medical care service requires extensive training, education, or ability or poses serious risks to the health or safety of patients, the board may prohibit or otherwise restrict that medical care service within a practice agreement.

Sec. 18049. (1) A group of podiatrists practicing other than as sole practitioners may designate 1 or more podiatrists in the group to enter into a practice agreement under section 18047.

(2) Notwithstanding any law or rule to the contrary, a podiatrist is not required to countersign orders written in a patient's clinical record by a physician's assistant with whom the podiatrist has a practice agreement. Notwithstanding any law or rule to the contrary, a podiatrist is not required to sign an official form that lists the podiatrist's signature as the required signatory if that official form is signed by a physician's assistant with whom the podiatrist has a practice agreement.

Sec. 18050. (1) In addition to its other powers and duties under this article, the board may prohibit a podiatrist or a physician's assistant from entering into a practice agreement for any of the grounds set forth in section 16221.

(2) For purposes of section 18051, the department, in consultation with the board, may promulgate rules concerning the prescribing of drugs by a physician's assistant. Subject to section 18051, the rules may define the drugs or classes of drugs that a physician's assistant may not prescribe and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws.

Sec. 18051. (1) A physician's assistant may make calls or go on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities in accordance with a practice agreement. Notwithstanding any law or rule to the contrary, a physician's assistant may make calls or go on rounds as provided in this subsection without restrictions on the time or frequency of visits by a podiatrist or the physician's assistant.

(2) A physician's assistant who is a party to a practice agreement may prescribe a drug in accordance with procedures and protocols for the prescription established by rule of the department in consultation with the appropriate board. A physician's assistant may prescribe a drug, including a controlled substance that is included in schedules 2 to 5 of part 72. If a physician's assistant prescribes a drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that prescription. If a physician's assistant prescribes a drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that prescription.

(3) A physician's assistant may order, receive, and dispense complimentary starter dose drugs, including controlled substances that are included in schedules 2 to 5 of part 72. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. As used in this subsection, "complimentary starter dose" means that term as defined in section 17745. It is the intent of the legislature in enacting this subsection to allow a pharmaceutical manufacturer or wholesale distributor, as those terms are defined in part 177, to distribute complimentary starter dose drugs to a physician's assistant, as described in this subsection, in compliance with section 503(d) of the federal food, drug, and cosmetic act, 21 USC 353.

Sec. 20174. A health facility or agency may designate 1 or more physicians to enter into a practice agreement under section 17047 or 17547.

Sec. 20201. (1) A health facility or agency that provides services directly to patients or residents and is licensed under this article shall adopt a policy describing the rights and responsibilities of patients or residents admitted to the health facility or agency. Except for a licensed health maintenance organization that is subject to chapter 35 of the insurance code of 1956, 1956 PA 218, MCL 500.3501 to 500.3573, the health facility or agency shall post the policy at a public place in the health facility or agency and shall provide the policy to each member of the health facility or agency staff. Patients or residents shall be treated in accordance with the policy.

(2) The policy describing the rights and responsibilities of patients or residents required under subsection (1) shall include, as a minimum, all of the following:

(a) A patient or resident shall not be denied appropriate care on the basis of race, religion, color, national origin, sex, age, disability, marital status, sexual preference, or source of payment.

(b) An individual who is or has been a patient or resident is entitled to inspect, or receive for a reasonable fee, a copy of his or her medical record upon request in accordance with the medical records access act, 2004 PA 47, MCL 333.26261 to 333.26271. Except as otherwise permitted or required under the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, a third party shall not be given a copy of the patient's or resident's medical record without prior authorization of the patient or resident.

(c) A patient or resident is entitled to confidential treatment of personal and medical records, and may refuse their release to a person outside the health facility or agency except as required because of a transfer to another health care facility, as required by law or third party payment contract, or as permitted or required under the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164.

(d) A patient or resident is entitled to privacy, to the extent feasible, in treatment and in caring for personal needs with consideration, respect, and full recognition of his or her dignity and individuality.

(e) A patient or resident is entitled to receive adequate and appropriate care, and to receive, from the appropriate individual within the health facility or agency, information about his or her medical condition, proposed course of treatment, and prospects for recovery, in terms that the patient or resident can understand, unless medically contraindicated as documented in the medical record by the attending physician or a physician's assistant with whom the physician has a practice agreement.

(f) A patient or resident is entitled to refuse treatment to the extent provided by law and to be informed of the consequences of that refusal. If a refusal of treatment prevents a health facility or agency or its staff from providing appropriate care according to ethical and professional standards, the relationship with the patient or resident may be terminated upon reasonable notice.

(g) A patient or resident is entitled to exercise his or her rights as a patient or resident and as a citizen, and to this end may present grievances or recommend changes in policies and services on behalf of himself or herself or others to the health facility or agency staff, to governmental officials, or to another person of his or her choice within or outside the health facility or agency, free from restraint, interference, coercion, discrimination, or reprisal. A patient or resident is entitled to information about the health facility's or agency's policies and procedures for initiation, review, and resolution of patient or resident complaints.

(h) A patient or resident is entitled to information concerning an experimental procedure proposed as a part of his or her care and has the right to refuse to participate in the experimental procedure without jeopardizing his or her continuing care.

(i) A patient or resident is entitled to receive and examine an explanation of his or her bill regardless of the source of payment and to receive, upon request, information relating to financial assistance available through the health facility or agency.

(j) A patient or resident is entitled to know who is responsible for and who is providing his or her direct care, to receive information concerning his or her continuing health needs and alternatives for meeting those needs, and to be involved in his or her discharge planning, if appropriate.

(k) A patient or resident is entitled to associate and have private communications and consultations with his or her physician or a physician's assistant with whom the physician has a practice agreement, with his or her attorney, or with any other individual of his or her choice and to send and receive personal mail unopened on the same day it is received at the health facility or agency, unless medically contraindicated as documented in the medical record by the attending physician or a physician's assistant with whom the physician has a practice agreement. A patient's or resident's civil and religious liberties, including the right to independent personal decisions and the right to knowledge of available choices, shall not be infringed and the health facility or agency shall encourage and assist in the fullest possible exercise of these rights. A patient or resident may meet with, and participate in, the activities of social, religious, and community groups at his or her discretion, unless medically contraindicated as documented in the medical record by the attending physician or a physician's assistant with whom the physician has a practice agreement.

(l) A patient or resident is entitled to be free from mental and physical abuse and from physical and chemical restraints, except those restraints authorized in writing by the attending physician or a physician's assistant with whom the physician has a practice agreement for a specified and limited time or as are necessitated by an emergency to protect the patient or resident from injury to self or others, in which case the restraint may only be applied by a qualified professional who shall set forth in writing the circumstances requiring the use of restraints and who shall promptly report the action to the attending physician or physician's assistant. In case of a chemical restraint, a physician shall be consulted within 24 hours after the commencement of the chemical restraint.

(m) A patient or resident is entitled to be free from performing services for the health facility or agency that are not included for therapeutic purposes in the plan of care.

(n) A patient or resident is entitled to information about the health facility or agency rules and regulations affecting patient or resident care and conduct.

(o) A patient or resident is entitled to adequate and appropriate pain and symptom management as a basic and essential element of his or her medical treatment.

(3) The following additional requirements for the policy described in subsection (2) apply to licensees under parts 213 and 217:

(a) The policy shall be provided to each nursing home patient or home for the aged resident upon admission, and the staff of the facility shall be trained and involved in the implementation of the policy.

(b) Each nursing home patient may associate and communicate privately with persons of his or her choice. Reasonable, regular visiting hours, which shall be not less than 8 hours per day, and which shall take into consideration the special circumstances of each visitor, shall be established for patients to receive visitors. A patient may be visited by the patient's attorney or by representatives of the departments named in section 20156, during other than established visiting hours. Reasonable privacy shall be afforded for visitation of a patient who shares a room with another patient. Each patient shall have reasonable access to a telephone. A married nursing home patient or home for the aged resident is entitled to meet privately with his or her spouse in a room that assures privacy. If both spouses are residents in the same facility, they are entitled to share a room unless medically contraindicated and documented in the medical record by the attending physician or a physician's assistant with whom the physician has a practice agreement.

(c) A nursing home patient or home for the aged resident is entitled to retain and use personal clothing and possessions as space permits, unless to do so would infringe upon the rights of other patients or residents, or unless medically contraindicated as documented in the medical record by the attending physician or a physician's assistant with whom the physician has a practice agreement. Each nursing home patient or home for the aged resident shall be provided with reasonable space. At the request of a patient, a nursing home shall provide for the safekeeping of personal effects, money, and other property of a patient in accordance with section 21767, except that a nursing home is not required to provide for the safekeeping of a property that would impose an unreasonable burden on the nursing home.

(d) A nursing home patient or home for the aged resident is entitled to the opportunity to participate in the planning of his or her medical treatment. The attending physician or a physician's assistant with whom the physician has a practice agreement shall fully inform the nursing home patient of the patient's medical condition unless medically contraindicated as documented in the medical record by a physician or a physician's assistant with whom the physician has a practice agreement. Each nursing home patient shall be afforded the opportunity to discharge himself or herself from the nursing home.

(e) A home for the aged resident may be transferred or discharged only for medical reasons, for his or her welfare or that of other residents, or for nonpayment of his or her stay, except as provided by title XVIII or title XIX. A nursing home patient may be transferred or discharged only as provided in sections 21773 to 21777. A nursing home patient or home for the aged resident is entitled to be given reasonable advance notice to ensure orderly transfer or discharge. Those actions shall be documented in the medical record.

(f) A nursing home patient or home for the aged resident is entitled to be fully informed before or at the time of admission and during stay of services available in the facility, and of the related charges including any charges for services not covered under title XVIII, or not covered by the facility's basic per diem rate. The statement of services provided by the facility shall be in writing and shall include those required to be offered on an as-needed basis.

(g) A nursing home patient or home for the aged resident is entitled to manage his or her own financial affairs, or to have at least a quarterly accounting of personal financial transactions undertaken in his or her behalf by the facility during a period of time the patient or resident has delegated those responsibilities to the facility. In addition, a patient or resident is entitled to receive each month from the facility an itemized statement setting forth the services paid for by or on behalf of the patient and the services rendered by the facility. The admission of a patient to a nursing home does not confer on the nursing home or its owner, administrator, employees, or representatives the authority to manage, use, or dispose of a patient's property.

(h) A nursing home patient or a person authorized by the patient in writing may inspect and copy the patient's personal and medical records. The records shall be made available for inspection and copying by the nursing home within a reasonable time, not exceeding 1 week, after the receipt of a written request.

(i) If a nursing home patient desires treatment by a licensed member of the healing arts, the treatment shall be made available unless it is medically contraindicated, and the medical contraindication is justified in the patient's medical record by the attending physician or a physician's assistant with whom the physician has a practice agreement.

(j) A nursing home patient has the right to have his or her parents, if a minor, or his or her spouse, next of kin, or patient's representative, if an adult, stay at the facility 24 hours a day if the patient is considered terminally ill by the physician responsible for the patient's care or a physician's assistant with whom the physician has a practice agreement.

(k) Each nursing home patient shall be provided with meals that meet the recommended dietary allowances for that patient's age and sex and that may be modified according to special dietary needs or ability to chew.

(l) Each nursing home patient has the right to receive representatives of approved organizations as provided in section 21763.

(4) A nursing home, its owner, administrator, employee, or representative shall not discharge, harass, or retaliate or discriminate against a patient because the patient has exercised a right protected under this section.

(5) In the case of a nursing home patient, the rights enumerated in subsection (2)(c), (g), and (k) and subsection (3)(d), (g), and (h) may be exercised by the patient's representative.

(6) A nursing home patient or home for the aged resident is entitled to be fully informed, as evidenced by the patient's or resident's written acknowledgment, before or at the time of admission and during stay, of the policy

required by this section. The policy shall provide that if a patient or resident is adjudicated incompetent and not restored to legal capacity, the rights and responsibilities set forth in this section shall be exercised by a person designated by the patient or resident. The health facility or agency shall provide proper forms for the patient or resident to provide for the designation of this person at the time of admission.

(7) This section does not prohibit a health facility or agency from establishing and recognizing additional patients' rights.

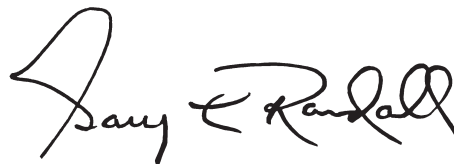
(8) As used in this section:

- (a) "Patient's representative" means that term as defined in section 21703.
- (b) "Practice agreement" means an agreement described in section 17047, 17547, or 18047.
- (c) "Title XVIII" means title XVIII of the social security act, 42 USC 1395 to 1395lll.
- (d) "Title XIX" means title XIX of the social security act, 42 USC 1396 to 1396w-5.

Enacting section 1. Section 17066 of the public health code, 1978 PA 368, MCL 333.17066, is repealed.

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor