

SENATE BILL NO. 720

September 22, 1999, Introduced by Senator JAYE and referred to

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

3 (i) Incompetence.

4 (ii) Subject to sections 16165 to 16170a, substance abuse as
5 defined in section 6107.

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

9 (iv) Declaration of mental incompetence by a court of compe-
10 tent jurisdiction.

11 (v) Conviction of a misdemeanor punishable by imprisonment
12 for a maximum term of 2 years; a misdemeanor involving the ille-
13 gal delivery, possession, or use of a controlled substance; or a
14 felony. A certified copy of the court record is conclusive evi-
15 dence of the conviction.

16 (vi) Lack of good moral character.

17 (vii) Conviction of a criminal offense under sections 520a
18 to 520l of the Michigan penal code, 1931 PA 328, MCL 750.520a to
19 750.520l. A certified copy of the court record is conclusive
20 evidence of the conviction.

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

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

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

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

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

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

16 (ii) Permitting the license or registration to be used by an
17 unauthorized person.

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

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

24 (d) Unethical business practices, consisting of 1 or more of
25 the following:

26 (i) False or misleading advertising.

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

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

6 (e) Unprofessional conduct, consisting of 1 or more of the
7 following:

8 (i) Misrepresentation to a consumer or patient or in obtain-
9 ing or attempting to obtain third party reimbursement in the
10 course of professional practice.

11 (ii) Betrayal of a professional confidence.

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

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

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

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

22 (h) Failure to comply with a subpoena issued pursuant to
23 this part, failure to respond to a complaint issued under this
24 article or article 7, failure to appear at a compliance confer-
25 ence or an administrative hearing, or failure to report under
26 section 16222 or 16223.

1 (i) Failure to pay an installment of an assessment levied
 2 pursuant to ~~section 2504~~ of the insurance code of 1956, 1956 PA
 3 218, MCL ~~500.2504~~ 500.100 TO 500.8302, within 60 days after
 4 notice by the appropriate board.

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

6 (k) Failure to meet 1 or more of the requirements for licen-
 7 sure or registration under section 16174.

8 (l) A violation of section 17015 or 17515.

9 (m) A violation of section 17016 or 17516.

10 (n) Failure to comply with section 9206(3).

11 (o) A violation of section 5654 or 5655.

12 (p) A violation of section 16274.

13 (Q) A VIOLATION OF SECTION 16269.

14 Sec. 16226. (1) After finding the existence of 1 or more of
 15 the grounds for disciplinary subcommittee action listed in sec-
 16 tion 16221, a disciplinary subcommittee shall impose 1 or more of
 17 the following sanctions for each violation:

18

19 Violations of Section 16221

Sanctions

20 Subdivision (a), (b)(ii),	Probation, limitation, denial,
21 (b)(iv), (b)(vi), or	suspension, revocation,
22 (b)(vii)	restitution, community service,
23	or fine.
24 Subdivision (b)(viii)	Revocation or denial.
25 Subdivision (b)(i),	Limitation, suspension,
26 (b)(iii), (b)(v),	revocation, denial,

1	(b)(ix),	probation, restitution,
2	(b)(x), or (b)(xi)	community service, or fine.
3	Subdivision (c)(i)	Denial, revocation, suspension,
4		probation, limitation, commu-
5		nity service, or fine.
6	Subdivision (c)(ii)	Denial, suspension, revocation,
7		restitution, community service,
8		or fine.
9	Subdivision (c)(iii)	Probation, denial, suspension,
10		revocation, restitution, commu-
11		nity service, or fine.
12	Subdivision (c)(iv)	Fine, probation, denial,
13	or (d)(iii)	suspension, revocation, commu-
14		nity service,
15		or restitution.
16	Subdivision (d)(i)	Reprimand, fine, probation,
17	or (d)(ii)	community service, denial,
18		or restitution.
19	Subdivision (e)(i)	Reprimand, fine, probation,
20		limitation, suspension, commu-
21		nity service, denial, or
22		restitution.
23	Subdivision (e)(ii)	Reprimand, probation,
24	or (h)	suspension, restitution, commu-
25		nity service, denial, or fine.
26	Subdivision (e)(iii)	Reprimand, fine, probation,

- 1 or (e)(iv) suspension, revocation,
 2 limitation, community service,
 3 denial, or restitution.
- 4 Subdivision (f) Reprimand or fine.
- 5 Subdivision (g) Reprimand, probation, denial,
 6 suspension, revocation, limita-
 7 tion, restitution, community
 8 service, or fine.
- 9 Subdivision (i) Suspension or fine.
- 10 Subdivision (j) or (o) Reprimand or fine.
- 11 Subdivision (k) Reprimand, denial, or
 12 limitation.
- 13 Subdivision (l) or (n) Denial, revocation, restitution,
 14 probation, suspension, limita-
 15 tion, reprimand, or fine.
- 16 Subdivision (m) Revocation or denial.
- 17 Subdivision (p) Revocation.
- 18 SUBDIVISION (Q) REVOCATION OR FINE.

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

1 the case to the disciplinary subcommittee for further
2 consideration.

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

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

13 SEC. 16269. (1) BEGINNING 30 DAYS AFTER THE EFFECTIVE DATE
14 OF THIS SECTION, A LICENSEE WHO MAY COME INTO CONTACT WITH THE
15 BODY FLUIDS OF A PATIENT DURING THE PERFORMANCE OF A PROCEDURE
16 GOVERNED BY THIS ARTICLE THAT INVOLVES THE POSSIBLE EXPOSURE OF
17 THE PATIENT TO THE LICENSEE'S BODY FLUIDS SHALL DO EACH OF THE
18 FOLLOWING:

19 (A) AT 6-MONTH INTERVALS, SUBMIT TO AN HIV TEST, A HEPATITIS
20 B VIRUS TEST, AND A HEPATITIS C VIRUS TEST CONSIDERED RELIABLE BY
21 THE FEDERAL CENTERS FOR DISEASE CONTROL AND APPROVED BY THE
22 DEPARTMENT OF COMMUNITY HEALTH.

23 (B) IF THE RESULT OF A TEST ADMINISTERED UNDER SUBDIVISION
24 (A) IS POSITIVE, IMMEDIATELY PROVIDE THE DEPARTMENT OF COMMUNITY
25 HEALTH WITH NOTICE OF THAT POSITIVE TEST RESULT AND A LIST OF
26 EACH PATIENT UPON WHOM THE LICENSEE HAS PERFORMED SUCH A
27 PROCEDURE DURING THE IMMEDIATELY PRECEDING 24 MONTHS.

1 (C) IF THE RESULT OF A TEST ADMINISTERED UNDER SUBDIVISION
2 (A) IS POSITIVE, IMMEDIATELY REFRAIN FROM PERFORMING SUCH A PRO-
3 CEDURE UNTIL THE DEPARTMENT OF COMMUNITY HEALTH APPROVES THE
4 LICENSEE'S PERFORMANCE OF THAT PROCEDURE.

5 (D) BEFORE PERFORMING A PROCEDURE APPROVED BY THE DEPARTMENT
6 OF COMMUNITY HEALTH PURSUANT TO SUBDIVISION (C), PROVIDE WRITTEN
7 NOTICE OF THE LICENSEE'S TEST RESULTS TO THE PATIENT UPON WHOM
8 THE PROCEDURE IS TO BE PERFORMED.

9 (E) ABSENT AN EMERGENCY, NOT PERFORM AN INVASIVE PROCEDURE
10 BENEATH THE SKIN OR SURGERY INSIDE THE MOUTH OF A PATIENT UNLESS
11 THAT PATIENT HAS UNDERGONE EACH TEST DESCRIBED IN SUBDIVISION
12 (A), AND THE LICENSEE HAS RECEIVED THE RESULTS OF THAT TEST.

13 (2) WITHIN 10 DAYS OF RECEIPT OF A LIST PROVIDED PURSUANT TO
14 SUBSECTION (1)(B), THE DEPARTMENT OF COMMUNITY HEALTH SHALL PRO-
15 VIDE BY ORDINARY MAIL TO EACH PATIENT IDENTIFIED IN THAT LIST A
16 NOTICE CONTAINING AT LEAST ALL OF THE FOLLOWING INFORMATION:

17 (A) A STATEMENT SPECIFYING THAT INDIVIDUAL'S POSSIBLE EXPO-
18 SURE TO THE IDENTIFIED VIRUS.

19 (B) THE AVAILABILITY OF A TEST, AT NO COST TO THE INDIVIDU-
20 AL, TO DETERMINE WHETHER THAT INDIVIDUAL HAS BEEN INFECTED WITH A
21 VIRUS TO WHICH HE OR SHE HAS POSSIBLY BEEN EXPOSED.

22 (C) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE INDIVIDU-
23 AL, AGENCY, OR DEPARTMENT THAT CAN PROVIDE FURTHER INFORMATION
24 AND SCHEDULE A TEST OR TESTS.

25 (3) UPON REQUEST, THE DEPARTMENT OF COMMUNITY HEALTH SHALL
26 PROVIDE TO AN INDIVIDUAL IDENTIFIED IN A LIST CREATED PURSUANT TO
27 SUBSECTION (1)(B) THE APPLICABLE TEST DESCRIBED IN SUBSECTION

1 (1)(A). THE DEPARTMENT OF COMMUNITY HEALTH SHALL NOT CHARGE THE
2 INDIVIDUAL BEING TESTED.