

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5168

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16146, 16174, and 16245 (MCL 333.16146,
333.16174, and 333.16245), section 16146 as amended by 1988 PA 462,
section 16174 as amended by 2002 PA 643, and section 16245 as
amended by 1998 PA 109.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16146. (1) A board shall grant a license or registration
2 to an applicant meeting the requirements for the license or
3 registration as prescribed in this article and the rules
4 promulgated under this article.

5 (2) A board which grants licenses may:

6 (a) Certify licensees in those health profession specialty
7 fields within its scope of practice which are established in this

1 article.

2 (b) Reclassify licenses on the basis of a determination that
3 the addition or removal of conditions or restrictions is
4 appropriate.

5 (C) UPON GOOD CAUSE, REQUEST THAT A LICENSEE OR REGISTRANT
6 HAVE A CRIMINAL HISTORY CHECK CONDUCTED IN ACCORDANCE WITH SECTION
7 16174(3) .

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

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

11 (b) Be of good moral character.

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

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

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

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

26 (a) Establish that disciplinary proceedings before a similar
27 licensure, registration, or specialty licensure or specialty

1 certification board of this or any other state, of the United
2 States military, of the federal government, or of another country
3 are not pending against the applicant.

4 (b) Establish that if sanctions have been imposed against the
5 applicant by a similar licensure, registration, or specialty
6 licensure or specialty certification board of this or any other
7 state, of the United States military, of the federal government, or
8 of another country based upon grounds that are substantially
9 similar to those set forth in this article or article 7 or the
10 rules promulgated under this article or article 7, as determined by
11 the board or task force to which the applicant applies, the
12 sanctions are not in force at the time of application.

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

19 (3) BEGINNING MAY 1, 2006, AN APPLICANT FOR INITIAL LICENSURE
20 OR REGISTRATION SHALL SUBMIT HIS OR HER FINGERPRINTS TO THE
21 DEPARTMENT OF STATE POLICE TO HAVE A CRIMINAL HISTORY CHECK
22 CONDUCTED AND REQUEST THAT THE DEPARTMENT OF STATE POLICE FORWARD
23 HIS OR HER FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR
24 A NATIONAL CRIMINAL HISTORY CHECK. THE DEPARTMENT OF STATE POLICE
25 SHALL CONDUCT A CRIMINAL HISTORY CHECK AND REQUEST THE FEDERAL
26 BUREAU OF INVESTIGATION TO MAKE A DETERMINATION OF THE EXISTENCE OF
27 ANY NATIONAL CRIMINAL HISTORY PERTAINING TO THE APPLICANT. THE

1 DEPARTMENT OF STATE POLICE SHALL PROVIDE THE DEPARTMENT WITH A
2 WRITTEN REPORT OF THE CRIMINAL HISTORY CHECK IF THE CRIMINAL
3 HISTORY CHECK CONTAINS ANY CRIMINAL HISTORY RECORD INFORMATION. THE
4 DEPARTMENT OF STATE POLICE SHALL FORWARD THE RESULTS OF THE FEDERAL
5 BUREAU OF INVESTIGATION DETERMINATION TO THE DEPARTMENT WITHIN 30
6 DAYS AFTER THE REQUEST IS MADE. THE DEPARTMENT SHALL NOTIFY THE
7 BOARD AND THE APPLICANT IN WRITING OF THE TYPE OF CRIME DISCLOSED
8 ON THE FEDERAL BUREAU OF INVESTIGATION DETERMINATION WITHOUT
9 DISCLOSING THE DETAILS OF THE CRIME. THE DEPARTMENT OF STATE POLICE
10 MAY CHARGE A REASONABLE FEE TO COVER THE COST OF CONDUCTING THE
11 CRIMINAL HISTORY CHECK. THE CRIMINAL HISTORY RECORD INFORMATION
12 OBTAINED UNDER THIS SUBSECTION SHALL BE USED ONLY FOR THE PURPOSE
13 OF EVALUATING AN APPLICANT'S QUALIFICATIONS FOR LICENSURE OR
14 REGISTRATION FOR WHICH HE OR SHE HAS APPLIED. A MEMBER OF THE BOARD
15 SHALL NOT DISCLOSE THE REPORT OR ITS CONTENTS TO ANY PERSON WHO IS
16 NOT DIRECTLY INVOLVED IN EVALUATING THE APPLICANT'S QUALIFICATIONS
17 FOR LICENSURE OR REGISTRATION. INFORMATION OBTAINED UNDER THIS
18 SUBSECTION IS CONFIDENTIAL, IS NOT SUBJECT TO DISCLOSURE UNDER THE
19 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246, AND
20 SHALL NOT BE DISCLOSED TO ANY PERSON EXCEPT FOR PURPOSES OF THIS
21 SECTION OR FOR LAW ENFORCEMENT PURPOSES.

22 (4) ~~—(3)—~~ Before granting a license, registration, specialty
23 certification, or a health profession specialty field license to an
24 applicant, the board or task force to which the applicant applies
25 may do 1 of the following:

26 (a) Make an independent inquiry into the applicant's
27 compliance with the requirements described in subsection (2). If a

1 licensure or registration board or task force determines under
2 subsection (2)(b) that sanctions have been imposed and are in force
3 at the time of application, the board or task force shall not grant
4 a license or registration or specialty certification or health
5 profession specialty field license to the applicant.

6 (b) Require the applicant to secure from a national
7 association or federation of state professional licensing boards
8 certification of compliance with the requirements described in
9 subsection (2).

10 (5) ~~—(4)—~~ If, after issuing a license, registration, specialty
11 certification, or health profession specialty field license, a
12 board or task force or the department determines that sanctions
13 have been imposed against the licensee or registrant by a similar
14 licensure or registration or specialty licensure or specialty
15 certification board as described in subsection (2)(b), the
16 disciplinary subcommittee may impose appropriate sanctions upon the
17 licensee or registrant. The licensee or registrant may request a
18 show cause hearing before a hearing examiner to demonstrate why the
19 sanctions should not be imposed.

20 (6) ~~—(5)—~~ An applicant for licensure, registration, specialty
21 certification, or a health profession specialty field license who
22 is or has been licensed, registered, or certified in a health
23 profession or specialty by another state or country shall disclose
24 that fact on the application form.

25 Sec. 16245. (1) An individual whose license is limited,
26 suspended, or revoked under this part may apply to his or her board
27 or task force for a reinstatement of a revoked or suspended license

1 or reclassification of a limited license pursuant to section 16247
2 or 16249.

3 (2) An individual whose registration is suspended or revoked
4 under this part may apply to his or her board for a reinstatement
5 of a suspended or revoked registration pursuant to section 16248.

6 (3) A board or task force shall reinstate a license or
7 registration suspended for grounds stated in section ~~16221(i)~~
8 **16221(J)** upon payment of the installment.

9 (4) Except as otherwise provided in this subsection, in case
10 of a revoked license or registration, an applicant shall not apply
11 for reinstatement before the expiration of 3 years after the
12 effective date of the revocation. In the case of a license or
13 registration that was revoked for a violation of section
14 16221(b) (vii), a violation of section 16221(c) (iv) consisting of a
15 felony conviction, any other felony conviction involving a
16 controlled substance, or a violation of section ~~16221(p)~~
17 **16221(Q)**, an applicant shall not apply for reinstatement before the
18 expiration of 5 years after the effective date of the revocation.
19 The department shall return an application for reinstatement
20 received before the expiration of the applicable time period under
21 this subsection.

22 (5) The department shall provide an opportunity for a hearing
23 before final rejection of an application for reinstatement.

24 (6) Based upon the recommendation of the disciplinary
25 subcommittee for each health profession, the department shall adopt
26 guidelines to establish specific criteria to be met by an applicant
27 for reinstatement under this article or article 7. The criteria may

1 include corrective measures or remedial education as a condition of
2 reinstatement. If a board or task force, in reinstating a license
3 or registration, deviates from the guidelines adopted under this
4 subsection, the board or task force shall state the reason for the
5 deviation on the record.

6 (7) An individual who seeks reinstatement or reclassification
7 of a license or registration pursuant to this section shall pay the
8 application processing fee as a reinstatement or reclassification
9 fee. If approved for reinstatement or reclassification, the
10 individual shall pay the per year license or registration fee for
11 the applicable license or registration period.

12 (8) AN INDIVIDUAL WHO SEEKS REINSTATEMENT OF A REVOKED OR
13 SUSPENDED LICENSE OR RECLASSIFICATION OF A LIMITED LICENSE PURSUANT
14 TO THIS SECTION SHALL HAVE A CRIMINAL HISTORY CHECK CONDUCTED IN
15 ACCORDANCE WITH SECTION 16174 AND SUBMIT A COPY OF THE RESULTS OF
16 THE BACKGROUND CHECK TO THE BOARD WITH HIS OR HER APPLICATION FOR
17 REINSTATEMENT OR RECLASSIFICATION.

18 Enacting section 1. This amendatory act does not take effect
19 unless all of the following bills of the 93rd Legislature are
20 enacted into law:

21 (a) Senate Bill No. 621.

22 (b) Senate Bill No. 622.

23 (c) House Bill No. 5448.