

Act No. 26
Public Acts of 2006
Approved by the Governor
February 16, 2006
Filed with the Secretary of State
February 17, 2006
EFFECTIVE DATE: February 17, 2006

**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Reps. Zelenko, Byrum, Murphy, Kathleen Law, Anderson, Vagnozzi, Bieda, Newell, Vander Veen, Shaffer, Leland, Lipsey, Stahl, Meisner, Gonzales, Plakas, Gleason, Clack, Stewart, Kolb, Whitmer, Kooiman, Williams, Brown, Farrah, Pastor, Hopgood, Brandenburg, Accavitti, Nofs, Ward, Sak, Huizenga, Palsrok, Gillard, Ball, Byrnes, Caul, Cushingberry, Espinoza, Hildenbrand, Jones, David Law, Lemmons, III, Lemmons, Jr., Mayes, Mortimer, Polidori, Proos and Sheltroun

ENROLLED HOUSE BILL No. 5168

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 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:

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

(2) A board which grants licenses may:

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

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

(c) Upon good cause, request that a licensee or registrant have a criminal history check conducted in accordance with section 16174(3).

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

(a) Be 18 or more years of age.

(b) Be of good moral character.

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

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

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

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

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

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

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

(3) Beginning May 1, 2006, an applicant for initial licensure or registration shall submit his or her fingerprints to the department of state police to have a criminal history check conducted and request that the department of state police forward his or her fingerprints to the federal bureau of investigation for a national criminal history check. The department of state police shall conduct a criminal history check and request the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the applicant. The department of state police shall provide the department with a written report of the criminal history check if the criminal history check contains any criminal history record information. The department of state police shall forward the results of the federal bureau of investigation determination to the department within 30 days after the request is made. The department shall notify the board and the applicant in writing of the type of crime disclosed on the federal bureau of investigation determination without disclosing the details of the crime. The department of state police may charge a reasonable fee to cover the cost of conducting the criminal history check. The criminal history record information obtained under this subsection shall be used only for the purpose of evaluating an applicant's qualifications for licensure or registration for which he or she has applied. A member of the board shall not disclose the report or its contents to any person who is not directly involved in evaluating the applicant's qualifications for licensure or registration. Information obtained under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this section or for law enforcement purposes.

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

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

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

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

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

Sec. 16245. (1) An individual whose license is limited, suspended, or revoked under this part may apply to his or her board or task force for a reinstatement of a revoked or suspended license or reclassification of a limited license pursuant to section 16247 or 16249.

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

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

(4) Except as otherwise provided in this subsection, in case of a revoked license or registration, an applicant shall not apply for reinstatement before the expiration of 3 years after the effective date of the revocation. In the case of a license or registration that was revoked for a violation of section 16221(b)(vii), a violation of section 16221(c)(iv) consisting of a felony conviction, any other felony conviction involving a controlled substance, or a violation of section 16221(q), an applicant shall not apply for reinstatement before the expiration of 5 years after the effective date of the revocation. The department shall return an application for reinstatement received before the expiration of the applicable time period under this subsection.

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

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

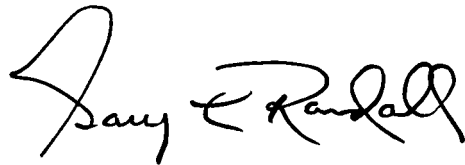
(7) An individual who seeks reinstatement or reclassification of a license or registration pursuant to this section shall pay the application processing fee as a reinstatement or reclassification fee. If approved for reinstatement or reclassification, the individual shall pay the per year license or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

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

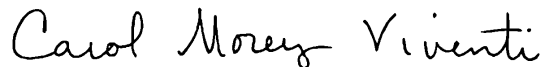
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 93rd Legislature are enacted into law:

- (a) Senate Bill No. 621.
- (b) Senate Bill No. 622.
- (c) House Bill No. 5448.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

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Governor