

**STATE OF MICHIGAN**  
**96TH LEGISLATURE**  
**REGULAR SESSION OF 2011**

**Introduced by Senator Marleau**

# **ENROLLED SENATE BILL No. 384**

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 16104, 17048, 17049, 17076, 17078, 17548, 17549, 17745, 17757, 18048, 18049, and 20201 (MCL 333.16104, 333.17048, 333.17049, 333.17076, 333.17078, 333.17548, 333.17549, 333.17745, 333.17757, 333.18048, 333.18049, and 333.20201), section 16104 as amended by 1993 PA 80, section 17048 as amended by 2010 PA 124, sections 17049 and 17549 as amended by 2004 PA 512, sections 17076 and 17548 as amended by 1996 PA 355, section 17078 as amended and sections 18048 and 18049 as added by 2006 PA 161, section 17745 as amended by 2006 PA 672, section 17757 as amended by 1986 PA 304, and section 20201 as amended by 2006 PA 38.

*The People of the State of Michigan enact:*

Sec. 16104. (1) “DEA registration number” means the number associated with a certificate of registration issued to a practitioner to prescribe, dispense, or administer controlled substances by the United States department of justice drug enforcement administration.

(2) “Delegation” means an authorization granted by a licensee to a licensed or unlicensed individual to perform selected acts, tasks, or functions that fall within the scope of practice of the delegator and that are not within the scope of practice of the delegatee and that, in the absence of the authorization, would constitute illegal practice of a licensed profession.

(3) “Department” means the department of licensing and regulatory affairs.

(4) “Director” means the director of the department or the director’s designee.

(5) “Disciplinary subcommittee” means a disciplinary subcommittee appointed under section 16216.

(6) “Good moral character” means good moral character as defined and determined under 1974 PA 381, MCL 338.41 to 338.47.

Sec. 17048. (1) Except as otherwise provided in this section and section 17049(5), a physician who is a sole practitioner or who practices in a group of physicians and treats patients on an outpatient basis shall not supervise more than 4 physician’s assistants. If a physician described in this subsection supervises physician’s assistants at more than 1 practice site, the physician shall not supervise more than 2 physician’s assistants by a method other than the physician’s actual physical presence at the practice site.

(2) A physician who is employed by, under contract or subcontract to, or has privileges at a health facility or agency licensed under article 17 or a state correctional facility may supervise more than 4 physician’s assistants at the health facility or agency or state correctional facility.

(3) 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.

(4) A physician shall not delegate ultimate responsibility for the quality of medical care services, even if the medical care services are provided by a physician’s assistant.

(5) The board may promulgate rules for the delegation by a supervising physician to a physician’s assistant of the function of prescription of drugs. The rules may define the drugs or classes of drugs the prescription of which shall not be delegated and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws. When delegated prescription occurs, both the physician’s assistant’s name and the supervising physician’s name shall be used, recorded, or otherwise indicated in connection with each individual prescription.

(6) A supervising physician may delegate in writing to a physician’s assistant the ordering, receipt, and dispensing of complimentary starter dose drugs including controlled substances that are included in schedules 2 to 5 of part 72. When the delegated ordering, receipt, or dispensing of complimentary starter dose drugs occurs, both the physician’s assistant’s name and the supervising physician’s name shall be used, recorded, or otherwise indicated in connection with each order, receipt, or dispensing. When the delegated ordering, receipt, or dispensing of complimentary starter dose drugs that are included in schedules 2 to 5 occurs, both the physician’s assistant’s and the supervising physician’s DEA registration numbers shall be used, recorded, or otherwise indicated in connection with each 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.

(7) 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 pursuant to section 4 of the professional service corporation act, 1962 PA 192, MCL 450.224, or a professional limited liability company pursuant to section 904 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4904, the individuals who are the supervising physicians of the physician’s assistants shall be shareholders in the same professional service 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 pursuant to section 4 of the professional service corporation act, 1962 PA 192, MCL 450.224, or a professional limited liability company pursuant to 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 individuals who are the supervising physicians of the physician’s assistants shall meet all of the applicable requirements of part 170, 175, or 180.

(8) 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 pursuant to section 4 of the professional service corporation act, 1962 PA 192, MCL 450.224, or a member in a professional limited liability company pursuant to section 904 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4904, which corporation or company 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 supervises 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) In addition to the other requirements of this section and subject to subsection (5), a physician who supervises a physician's assistant is responsible for all of the following:

- (a) Verification of the physician's assistant's credentials.
- (b) Evaluation of the physician's assistant's performance.
- (c) Monitoring the physician's assistant's practice and provision of medical care services.

(2) Subject to section 16215 or 17048, as applicable, a physician who supervises a physician's assistant may delegate to the physician's assistant the performance of medical care services for a patient who is under the case management responsibility of the physician, if the delegation is consistent with the physician's assistant's training.

(3) A physician who supervises a physician's assistant is responsible for the clinical supervision of each physician's assistant to whom the physician delegates the performance of medical care service under subsection (2).

(4) Subject to subsection (5), a physician who supervises a physician's assistant shall keep on file in the physician's office or in the health facility or agency or correctional facility in which the physician supervises the physician's assistant a permanent, written record that includes the physician's name and license number and the name and license number of each physician's assistant supervised by the physician.

(5) A group of physicians practicing other than as sole practitioners may designate 1 or more physicians in the group to fulfill the requirements of subsections (1) and (4).

(6) 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 to whom the physician has delegated the performance of medical care services for a patient. 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 to whom the physician has delegated the performance of medical care services.

Sec. 17076. (1) Except in an emergency situation, a physician's assistant shall provide medical care services only under the supervision of a physician or properly designated alternative physician, and only if those medical care services are within the scope of practice of the supervising physician and are delegated by the supervising physician.

(2) A physician's assistant may make calls or go on rounds under the supervision of a physician 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. 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 the physician or the physician's assistant.

(3) A physician's assistant may prescribe drugs as a delegated act of a supervising physician in accordance with procedures and protocol for the prescription established by rule of 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, as a delegated act of the supervising physician. When delegated prescription occurs, both the physician's assistant's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription so that the individual who dispenses or administers the prescription knows under whose delegated authority the physician's assistant is prescribing. When delegated prescription of drugs that are included in schedules 2 to 5 occurs, both the physician's assistant's and the supervising physician's DEA registration numbers shall be used, recorded, or otherwise indicated in connection with each individual prescription.

(4) 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, as a delegated act of a supervising physician. When the delegated ordering, receipt, or dispensing of complimentary starter dose drugs occurs, both the physician's assistant's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each order, receipt, or dispensing so that the individual who processes the order or delivers the complimentary starter dose drugs or to whom the complimentary starter dose drugs are dispensed knows under whose delegated authority the physician's assistant is ordering, receiving, or dispensing. When the delegated ordering, receipt, or dispensing of complimentary starter dose drugs that are included in schedules 2 to 5 occurs, both the physician's assistant's and the supervising physician's DEA registration numbers shall be used, recorded, or otherwise indicated in connection with each 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. (1) A physician's assistant is the agent of his or her supervising physician under this part or part 175 or supervising podiatrist under part 180. A communication made to a physician's assistant that would be a privileged communication if made to the supervising physician under this part or part 175 or supervising podiatrist under part 180 is a privileged communication to the physician's assistant and the supervising physician or supervising podiatrist to the same extent as if the communication were made to the supervising physician or supervising podiatrist.

(2) A physician's assistant shall conform to minimal standards of acceptable and prevailing practice for the supervising physician under this part or part 175 or supervising podiatrist under part 180.

Sec. 17548. (1) Except as otherwise provided in this subsection and section 17549(5), a physician who is a sole practitioner or who practices in a group of physicians and treats patients on an outpatient basis shall not supervise more than 4 physician's assistants. If a physician described in this subsection supervises physician's assistants at more than 1 practice site, the physician shall not supervise more than 2 physician's assistants by a method other than the physician's actual physical presence at the practice site.

(2) A physician who is employed by or under contract or subcontract to or has privileges at a health facility licensed under article 17 or a state correctional facility may supervise more than 4 physician's assistants at the health facility or agency or state correctional facility.

(3) 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.

(4) A physician shall not delegate ultimate responsibility for the quality of medical care services, even if the medical care services are provided by a physician's assistant.

(5) The board may promulgate rules for the delegation by a supervising physician to a physician's assistant of the function of prescription of drugs. The rules may define the drugs or classes of drugs the prescription of which shall not be delegated and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws. When delegated prescription occurs, both the physician's assistant's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription.

(6) A supervising physician may delegate in writing to a physician's assistant the ordering, receipt, and dispensing of complimentary starter dose drugs including controlled substances that are included in schedules 2 to 5 of part 72. When the delegated ordering, receipt, or dispensing of complimentary starter dose drugs occurs, both the physician's assistant's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each order, receipt, or dispensing. When the delegated ordering, receipt, or dispensing of complimentary starter dose drugs that are included in schedules 2 to 5 occurs, both the physician's assistant's and the supervising physician's DEA registration numbers shall be used, recorded, or otherwise indicated in connection with each 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) In addition to the other requirements of this section and subject to subsection (5), a physician who supervises a physician's assistant is responsible for all of the following:

- (a) Verification of the physician's assistant's credentials.
- (b) Evaluation of the physician's assistant's performance.
- (c) Monitoring the physician's assistant's practice and provision of medical care services.

(2) Subject to section 16215 or 17548, as applicable, a physician who supervises a physician's assistant may delegate to the physician's assistant the performance of medical care services for a patient who is under the case management responsibility of the physician, if the delegation is consistent with the physician's assistant's training.

(3) A physician who supervises a physician's assistant is responsible for the clinical supervision of each physician's assistant to whom the physician delegates the performance of medical care service under subsection (2).

(4) Subject to subsection (5), a physician who supervises a physician's assistant shall keep on file in the physician's office or in the health facility or agency or state correctional facility in which the physician supervises the physician's assistant a permanent, written record that includes the physician's name and license number and the name and license number of each physician's assistant supervised by the physician.

(5) A group of physicians practicing other than as sole practitioners may designate 1 or more physicians in the group to fulfill the requirements of subsections (1) and (4).

(6) 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 to whom the physician has delegated the performance of medical care services for a patient. 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 to whom the physician has delegated the performance of medical care services.

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) 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 and prescription drugs prescribed for the patient. 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 assure 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 shall 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) 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, shall list 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 at least all of the following information, either by dispensing the complimentary starter dose drug to the patient in a container that bears a label containing the information or by giving the patient a written document which may include, but is not limited to, a preprinted insert that comes with the complimentary starter dose drug, that contains the information:

(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, 17076, 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. 17757. (1) Upon a request made in person or by telephone, a pharmacist engaged in the business of selling drugs at retail shall provide the current selling price of a drug dispensed by that pharmacy or comparative current selling prices of generic and brand name drugs dispensed by that pharmacy. The information shall be provided to the person making the request before a drug is dispensed to the person. A person who makes a request for price information under this subsection shall not be obligated to purchase the drug for which the price or comparative prices are requested.

(2) A pharmacist engaged in the business of selling drugs at retail shall conspicuously display the notice described in subsection (3) at each counter over which prescription drugs are dispensed.

(3) The notice required under subsection (2) shall be in substantially the following form:

#### NOTICE TO CONSUMERS ABOUT PRESCRIPTION DRUGS

Under Michigan law, you have the right to find out the price of a prescription drug before the pharmacist fills the prescription. You are under no obligation to have the prescription filled here and may use this price information to shop around at other pharmacies. You may request price information in person or by telephone.

Every pharmacy has the current selling prices of both generic and brand name drugs dispensed by the pharmacy.

Ask your pharmacist if a lower-cost generic drug is available to fill your prescription. A generic drug contains the same medicine as a brand name drug and is a suitable substitute in most instances.

A generic drug may not be dispensed by your pharmacist if your doctor has written "dispense as written" or the initials "d.a.w." on the prescription.

If you have questions about the drugs which have been prescribed for you, ask your doctor or pharmacist for more information.

To avoid dangerous drug interactions, let your doctor and pharmacist know about any other medications you are taking. This is especially important if you have more than 1 doctor or have prescriptions filled at more than 1 pharmacy.

(4) The notice required under subsection (2) shall also contain the address and phone number of the board and the department. The text of the notice shall be in at least 32-point bold type and shall be printed on paper at least 11 inches by 17 inches in size. The notice may be printed on multiple pages.

(5) A copy of the notice required under subsection (2) shall be provided to each licensee by the department. Additional copies shall be available if needed from the department. A person may duplicate or reproduce the notice if the duplication or reproduction is a true copy of the notice as produced by the department, without any additions or deletions whatsoever.

(6) The pharmacist shall furnish to the purchaser of a prescription drug at the time the drug is delivered to the purchaser a receipt evidencing the transactions, which contains the following:

(a) The brand name of the drug, if applicable.

(b) The name of the manufacturer or the supplier of the drug, if the drug does not have a brand name.

(c) The strength of the drug, if significant.

(d) The quantity dispensed, if applicable.

(e) The name and address of the pharmacy.

(f) The serial number of the prescription.

(g) The date the prescription was originally dispensed.

(h) The name of the prescriber or, if prescribed under the prescriber's delegatory authority, shall list the name of the delegatee.

(i) The name of patient for whom the drug was prescribed.

(j) The price for which the drug was sold to the purchaser.

(7) Subsection (6)(a), (b), and (c) may be omitted by a pharmacist only if the omission is expressly required by the prescriber. The pharmacist shall retain a copy of each receipt for 90 days. The inclusion of subsection (6) on the prescription container label is a valid receipt to the purchaser. Including subsection (6) on the written prescription form and retaining the form constitutes retention of a copy of the receipt.

(8) The board may promulgate rules to implement this section.

Sec. 18048. (1) Except as otherwise provided in this section and section 18049(5), a podiatrist who is a sole practitioner or who practices in a group of podiatrists and treats patients on an outpatient basis shall not supervise more than 4 physician's assistants. If a podiatrist described in this subsection supervises physician's assistants at more than 1 practice site, the podiatrist shall not supervise more than 2 physician's assistants by a method other than the podiatrist's actual physical presence at the practice site.

(2) A podiatrist who is employed by or under contract or subcontract to or has privileges at a health facility licensed under article 17 may supervise more than 4 physician's assistants at the health facility or agency.

(3) The department may promulgate rules for the appropriate delegation and utilization of a physician's assistant by a podiatrist, including, but not limited to, rules to prohibit or otherwise restrict the delegation of certain podiatric services or require higher levels of supervision if the board determines that these services require extensive training, education, or ability or pose serious risks to the health or safety of patients.

Sec. 18049. (1) In addition to the other requirements of this section and subject to subsection (5), a podiatrist who supervises a physician's assistant is responsible for all of the following:

- (a) Verification of the physician's assistant's credentials.
- (b) Evaluation of the physician's assistant's performance.
- (c) Monitoring the physician's assistant's practice and provision of podiatric services.

(2) Subject to section 16215 or 18048, as applicable, a podiatrist who supervises a physician's assistant may only delegate to the physician's assistant the performance of podiatric services for a patient who is under the case management responsibility of the podiatrist, if the delegation is consistent with the physician's assistant's training. A podiatrist shall only supervise a physician's assistant in the performance of those duties included within his or her scope of practice.

(3) A podiatrist who supervises a physician's assistant is responsible for the clinical supervision of each physician's assistant to whom the physician delegates the performance of podiatric services under subsection (2).

(4) Subject to subsection (5), a podiatrist who supervises a physician's assistant shall keep on file in the physician's office or in the health facility or agency in which the podiatrist supervises the physician's assistant a permanent, written record that includes the podiatrist's name and license number and the name and license number of each physician's assistant supervised by the podiatrist.

(5) A group of podiatrists practicing other than as sole practitioners may designate 1 or more podiatrists in the group to fulfill the requirements of subsections (1) and (4).

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, which shall comply with chapter 35 of the insurance code of 1956, 1956 PA 218, MCL 500.3501 to 500.3580, the policy shall be posted at a public place in the health facility or agency and shall be provided 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 to whom the physician has delegated the performance of medical care services.

(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, is entitled 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 to whom the physician has delegated the performance of medical care services, attorney, or any other person 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 to whom the physician has delegated the performance of medical care services. 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 to whom the physician has delegated the performance of medical care services.

(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 to whom the physician has delegated the performance of medical care services 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 to whom the physician has delegated the performance of medical care services.

(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 to



whom the physician has delegated the performance of medical care services. 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, funds, 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 to whom the physician has delegated the performance of medical care services 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 to whom the physician has delegated the performance of medical care services. 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 to whom the physician has delegated the performance of medical care services.

(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 to whom the physician has delegated the performance of medical care services.

(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) "Title XVIII" means title XVIII of the social security act, 42 USC 1395 to 1395kkk-1.

(c) "Title XIX" means title XIX of the social security act, 42 USC 1396 to 1396w-5.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved .....

.....  
Governor