

Act No. 140  
Public Acts of 2019  
Approved by the Governor  
December 4, 2019

Filed with the Secretary of State  
December 5, 2019

EFFECTIVE DATE: March 4, 2020

**STATE OF MICHIGAN  
100TH LEGISLATURE  
REGULAR SESSION OF 2019**

**Introduced by Reps. Kahle, Pagan, Kuppa, Warren, Filler, LaGrand, Haadsma, Vaupel, Griffin, Calley, Hertel, Sabo, LaFave, Wozniak, Frederick, Afendoulis and Sneller**

# **ENROLLED HOUSE BILL No. 4710**

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 the heading of part 165 and sections 16215, 16322, 16501, 16511, 16521, 16525, and 16529 (MCL 333.16215, 333.16322, 333.16501, 333.16511, 333.16521, 333.16525, and 333.16529), section 16215 as amended by 2005 PA 211, sections 16322, 16501, 16525, and 16529 as added by 2006 PA 30, section 16511 as amended by 2006 PA 397, and section 16521 as amended by 2010 PA 79, and by adding sections 16513, 16515, and 16517.

*The People of the State of Michigan enact:*

Sec. 16215. (1) Subject to subsections (2) to (6), a licensee who holds a license other than a health profession subfield license may delegate to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience the performance of selected acts, tasks, or functions where the acts, tasks, or functions fall within the scope of practice of the licensee’s profession and will be performed under the licensee’s supervision. A licensee shall not delegate an act, task, or function under this section if the act, task, or function, under standards of acceptable and prevailing practice, requires the level of education, skill, and judgment required of the licensee under this article.

(2) Subject to subsection (1) and except as otherwise provided in this subsection and subsections (3) and (4), a licensee who is an allopathic physician or osteopathic physician and surgeon shall delegate an act, task, or function that involves the performance of a procedure that requires the use of surgical instrumentation only to an individual who is licensed under this article. A licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in this subsection to an individual who is not licensed

under this article if the unlicensed individual is 1 or more of the following and if the procedure is directly supervised by a licensed allopathic physician or osteopathic physician and surgeon who is physically present during the performance of the procedure:

(a) A student enrolled in a school of medicine or osteopathic medicine approved by the Michigan board of medicine or the Michigan board of osteopathic medicine and surgery.

(b) A student enrolled in a physician's assistant training program approved by the joint physician's assistant task force created under part 170.

(3) Subject to subsection (1), a licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in subsection (2) to an individual who is not licensed under this article and who is 1 of the following:

(a) Performing acupuncture. This subdivision does not apply beginning 36 months after the effective date of the rules promulgated under section 16525 on the licensure of acupuncturists.

(b) Surgically removing only bone, skin, blood vessels, cartilage, dura mater, ligaments, tendons, pericardial tissue, or heart valves only from a deceased individual for transplantation, implantation, infusion, injection, or other medical or scientific purpose.

(4) Subject to subsection (1), a licensee who is an allopathic physician or osteopathic physician and surgeon may delegate an act, task, or function described in subsection (2) to an individual who is not licensed under this article if the procedure is directly supervised by a licensed allopathic physician or osteopathic physician and surgeon who is physically present during the performance of the procedure, the delegation of such procedure is not prohibited or otherwise restricted by the board or that health facility or agency, and the delegation of that act, task, or function is specifically authorized by that health facility or agency to be delegated and performed by either of the following unlicensed individuals:

(a) A surgical technologist who meets the qualifications established by the health facility or agency with which he or she is employed or under contract.

(b) A surgical first assistant who meets the qualifications established by the health facility or agency with which he or she is employed or under contract.

(5) A board may promulgate rules to further prohibit or otherwise restrict delegation of specific acts, tasks, or functions to a licensed or unlicensed individual if the board determines that the delegation constitutes or may constitute a danger to the health, safety, or welfare of the patient or public.

(6) To promote safe and competent practice, a board may promulgate rules to specify conditions under which, and categories and types of licensed and unlicensed individuals for whom, closer supervision may be required for acts, tasks, and functions delegated under this section.

(7) An individual who performs acts, tasks, or functions delegated pursuant to this section does not violate the part that regulates the scope of practice of that health profession.

(8) The amendatory act that added this subsection does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual authorized to perform those services under subsection (4).

Sec. 16322. Fees for an individual who is licensed or seeking licensure to engage in the practice of acupuncture under part 165 are as follows:

(a) Application processing fee.....	\$	75.00
(b) License fee, per year.....	\$	200.00
(c) Limited license, per year.....	\$	200.00
(d) Temporary license fee.....	\$	200.00

#### PART 165. Acupuncture

Sec. 16501. (1) As used in this part:

(a) "Acupressure" means a form of manual therapy in which physical pressure is applied to various points on the body.

(b) "Acupuncture" means the insertion and manipulation of needles through the surface of the human body. Acupuncture includes, but is not limited to, laser acupuncture, electroacupuncture, pricking therapy, dry needling, and intramuscular stimulation.

(c) "Acupuncturist" means an individual who is licensed under this part to engage in the practice of acupuncture.

(d) "Cupping" means the placement of a specially designed cup on the body to create suction.

(e) "Dermal friction" means the use of repeated, closely timed, unidirectional press-stroking with a smooth-edged instrument over a lubricated area of the body.

(f) “Dietary counseling” means the process of advising a patient about healthy food choices and healthy eating habits in accordance with East Asian medical theory.

(g) “Dry needling” means a rehabilitative procedure using filiform needles to penetrate the skin or underlying tissues by targeting only myofascial trigger points and muscular and connective tissues to affect change in body structures and functions for the evaluation and management of neuromusculoskeletal pain and movement impairment. Dry needling does not include the stimulation of auricular points or other acupuncture points.

(h) “East Asian medicine techniques” includes, but is not limited to, acupuncture, manual therapy, moxibustion, heat therapy, dietary counseling, therapeutic exercise, acupressure, cupping, dermal friction, homeopathy, lifestyle coaching, and treatment with herbal medicines.

(i) “Heat therapy” means the use of heat in therapy, such as for pain relief and health.

(j) “Herbal medicine” means the internal and external use of a plant or a plant extract, a mineral, or an animal product, that is not a prescription drug as that term is defined in section 17708.

(k) “Homeopathy” means the use of a highly diluted natural remedy from the plant, mineral, and animal domain.

(l) “Lifestyle coaching” means the process of advising a patient about healthy lifestyle choices and habits in accordance with East Asian medical theory.

(m) “Manual therapy” means the application of an accurately determined and specifically directed manual force to the body, excluding a high-velocity, low-amplitude thrust to the spine.

(n) “Moxibustion” means burning the dried plant *Artemisia vulgaris* on or very near the surface of the skin as a form of therapy.

(o) “Practice of acupuncture”, subject to subsection (2), means the use of traditional and contemporary East Asian medical theory to assess and diagnose a patient, to develop a plan to treat the patient, and to treat the patient through East Asian medicine techniques.

(p) “Practice of chiropractic” means that term as defined in section 16401.

(q) “Practice of massage therapy” means that term as defined in section 17951.

(r) “Practice of medicine” means that term as defined in section 17001.

(s) “Practice of osteopathic medicine and surgery” means that term as defined in section 17501.

(t) “Practice of physical therapy” means that term as defined in section 17801.

(u) “Registered acupuncturist” means an individual who is registered or otherwise authorized under this part before the effective date of the amendatory act that added section 16513.

(v) “Systematic acupuncture education” means a course of education that covers the foundation of acupuncture science and theory, channel and point location, needling techniques, approaches to diagnosis and therapy, and patient management.

(w) “Therapeutic exercise” means a range of physical activities that help restore and build physical strength, endurance, flexibility, balance, and stability.

(2) For purposes of this part, practice of acupuncture does not include the practice of medicine, the practice of osteopathic medicine and surgery, the practice of physical therapy, the practice of occupational therapy, the practice of podiatric medicine and podiatric surgery, the practice of nursing, the practice of dentistry, the practice of massage therapy, or the practice of chiropractic.

(3) 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. 16511. Except as otherwise provided in this part, beginning on the effective date of rules promulgated under section 16525 regarding licensure, an individual shall not use the words, titles, or letters “acupuncturist”, “certified acupuncturist”, “registered acupuncturist”, “licensed acupuncturist”, “L.Ac.”, or a similar word or initial that indicates that the individual is an acupuncturist, unless he or she is authorized under this part to use the terms and in a way prescribed in this part.

Sec. 16513. (1) Beginning on the effective date of rules promulgated under section 16525 regarding licensure, an individual shall not engage in the practice of acupuncture unless he or she is licensed under this part or is otherwise authorized under this article. For a period not to exceed 36 months from the effective date of the rules promulgated under section 16525 regarding licensure, a registered acupuncturist may, without a license under this part, continue to use the titles “acupuncturist”, “registered acupuncturist”, or “certified acupuncturist” and engage in the practice of acupuncture.

(2) In addition to the exemptions from licensure under section 16171, this part does not apply to any of the following:

(a) Except as otherwise provided in subdivision (e), an individual licensed, registered, or otherwise authorized under any other part or act who is performing activities that are considered to be within the practice of acupuncture if those activities are within the individual’s scope of practice and the individual does not use the

words, titles, or letters protected under section 16511.

(b) A physician who is licensed under part 170 or part 175 if the physician has completed a total of not less than 300 hours of systematic acupuncture education that include not less than 100 hours of live lectures, demonstrations, and supervised clinical training specific to acupuncture.

(c) An individual who meets all of the following requirements:

(i) He or she meets the requirements for a certificate of training as an acupuncture detoxification specialist issued by the National Acupuncture Detoxification Association or an organization that the board determines is a successor organization.

(ii) He or she only uses the auricular protocol for substance use disorder prevention and treatment developed by the National Acupuncture Detoxification Association or an organization that the board determines is a successor organization.

(iii) When using the protocol described in subparagraph (ii), he or she is under the supervision of an acupuncturist or a physician licensed under part 170 or part 175.

(iv) He or she does not use the words, titles, or letters protected under section 16511.

(d) An individual performing acupressure, cupping, dermal friction, dietary counseling, heat therapy, herbal medicine, homeopathy, lifestyle coaching, manual therapy, or therapeutic exercise, while engaged in the practice of a profession with established standards and ethics and as long as those services are not designated as or implied to be the practice of acupuncture and the individual does not use the titles, words, or letters protected under section 16511.

(e) Dry needling by an individual licensed, registered, or otherwise authorized under any other part if dry needling is within the individual's scope of practice.

Sec. 16515. (1) Except as otherwise provided in subsections (2) and (3), the department shall issue a license to an applicant who meets the requirements of section 16174 and the requirements for licensure established in rules promulgated under section 16525.

(2) On or before the expiration of 36 months after the effective date of the rules promulgated under section 16525 regarding licensure, the department shall issue a license to an applicant who meets the requirements of section 16174 and 1 of the following:

(a) He or she is a registered acupuncturist.

(b) He or she has the education, training, and experience appropriate to the practice of acupuncture as established in rules promulgated under section 16525 regarding licensure. In determining whether an applicant has met the requirements for licensure under this subdivision, the department, in consultation with the board, shall promulgate rules establishing criteria for considering patient records, billing records, education records, training records, or other evidence of the applicant's education, training, and experience that is submitted to the department. An applicant shall ensure that any document that is submitted to the department under this subdivision ensures the confidentiality of a patient's identity.

(3) On or before the expiration of 36 months after the effective date of the rules promulgated under section 16525 regarding licensure, the department shall issue a limited license to an applicant who meets the requirements of section 16174, and who, at the time of the application, meets all of the following requirements:

(a) The applicant has been performing acupuncture under the supervision of a physician licensed under part 170 or part 175 for at least 2 years as of the effective date of the amendatory act that added this section. The applicant shall include the name of the physician under which he or she is engaging in the practice of acupuncture on the application for limited licensure.

(b) The applicant holds a license to engage in another health profession.

(4) An individual who is granted a limited license under subsection (3) shall comply with all of the following:

(a) He or she shall only engage in the practice of acupuncture while he or she is under the supervision of the physician named in the application for limited licensure and shall immediately notify the department if the physician named in the application is no longer willing or able to supervise the individual.

(b) He or she shall not collect payment from an insurer for performing a service that is within the practice of acupuncture. As used in this subdivision, "insurer" means that term as defined in section 106 of the insurance code of 1956, 1956 PA 218, MCL 500.106.

Sec. 16517. (1) Notwithstanding the requirements of part 161, the department, in consultation with the board, shall promulgate rules requiring a licensee seeking renewal of a license to furnish the department with satisfactory evidence that during the license cycle immediately preceding the application for renewal the licensee has attended continuing education courses or programs approved by the board in subjects related to the practice of acupuncture and designed to further educate licensees. An individual is considered to have completed the continuing education requirements described in this subsection if the department determines that the individual has met the continuing education standards of the National Certification Commission for Acupuncture and Oriental Medicine or equivalent standards as determined by the board.

(2) As required under section 16204, the department, in consultation with the board, shall promulgate rules requiring each applicant for license renewal to complete as part of the educational courses or programs required under subsection (1) an appropriate number of hours or courses in pain and symptom management.

(3) In addition to the continuing education requirements of this section, the department shall require an applicant seeking renewal of a limited license granted under section 16515(3) to hold a license to engage in another health profession at the time of his or her application for renewal as a condition of renewal of his or her limited license.

Sec. 16521. (1) The Michigan board of acupuncture is created in the department and consists of the following 13 voting members, each of whom must meet the requirements of part 161:

(a) Seven acupuncturists. The members appointed under this subdivision must meet the requirements of section 16135.

(b) Three physicians licensed under part 170 or 175, at least 1 of whom has met the requirement in section 16513(2)(b).

(c) Three public members.

(2) The terms of office of individual members of the board created under this part, except those appointed to fill vacancies, expire on June 30 of the year in which the term expires pursuant to section 16122.

Sec. 16525. Within 12 months after the effective date of the amendatory act that amended this section, the department, in consultation with the board, shall promulgate rules that establish the minimum standards for licensure as an acupuncturist and implement the licensure program for the practice of acupuncture. In promulgating rules for purposes of section 16515(1), the department, in consultation with the board, may adopt by reference the professional standards issued by a certified program that is recognized by the National Commission for Certifying Agencies. In promulgating rules for purposes of section 16515(2)(b), the department, in consultation with the board, shall consider whether an applicant has completed systematic acupuncture education that includes live lectures, demonstrations, and supervised clinical training specific to acupuncture.

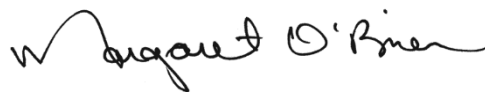
Sec. 16529. This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services by an individual licensed as an acupuncturist under this part.

Enacting section 1. 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 \_\_\_\_\_

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Governor