

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5842**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16135, 16216, 16245, 16247, 16248, and 16249
(MCL 333.16135, 333.16216, 333.16245, 333.16247, 333.16248, and
333.16249), section 16135 as amended by 1993 PA 80, section 16216
as amended by 2014 PA 98, section 16245 as amended by 2013 PA 268,
and sections 16247, 16248, and 16249 as amended by 1993 PA 79, and
by adding section 16245a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 16135. (1) Except as otherwise provided in subsection
2 (2), a member of a board, the committee, or a task force created by
3 this article ~~shall~~ **MUST** meet all of the following requirements:
4 (a) Be 18 or more years of age.
5 (b) Be of good moral character.

(c) Be a resident of this state for not less than the 6 months immediately preceding appointment and remain a resident of this state throughout the term of the appointment.

(d) Be currently licensed or registered in this state ~~where~~ **IF** licensure or registration in a health profession is a requirement for membership. The member ~~shall~~ **MUST** have actively practiced that profession or taught in an approved educational institution that prepares applicants for licensure or registration in that profession, or a combination of both, in any state for not less than the 2 years immediately preceding appointment.

(E) NOT BE A SPOUSE, PARENT, CHILD, OR SIBLING OF ANOTHER MEMBER OF THE BOARD, COMMITTEE, OR TASK FORCE AND MEET THIS REQUIREMENT THROUGHOUT THE TERM OF THE APPOINTMENT.

(F) NOT PROVIDE SUPERVISION OVER OR BE UNDER THE SUPERVISION OF ANOTHER MEMBER OF THE BOARD, COMMITTEE, OR TASK FORCE AND MEET THIS REQUIREMENT THROUGHOUT THE TERM OF THE APPOINTMENT.

(2) Subject to subsection (3), ~~for a board created on or after January 1, 1989, the governor may appoint as the members~~ **A MEMBER** of ~~the~~ **A** board who ~~are~~ **IS** required to be licensed or registered under subsection (1)(d) ~~individuals~~ **AN INDIVIDUAL** who ~~meet~~ **MEETS** either or both of the following requirements:

(a) ~~Are~~ **IS** certified or otherwise approved by a national organization that certifies or otherwise approves individuals in the profession to be licensed or registered by the board.

(b) ~~Have~~ **HAS** actively practiced the profession licensed or registered by the board or taught in an educational institution that prepares applicants for licensure or registration in that

1 profession, or a combination of both, for not less than the 2 years
2 immediately preceding ~~their~~**HIS OR HER** appointment.

3 (3) ~~Each~~**AN** individual appointed under subsection (2) ~~shall~~
4 **MUST** be licensed or registered under this article in the profession
5 licensed or registered by that board within 3 years after the
6 effective date of the amendatory act that created the board.

7 Sec. 16216. (1) The chair of each board or task force shall
8 appoint 1 or more disciplinary subcommittees for that board or task
9 force. A disciplinary subcommittee for a board or task force shall
10 consist of 2 public members and 3 professional members from the
11 board or task force. ~~The chair of a board or task force shall not~~
12 ~~serve as a member of a disciplinary subcommittee.~~

13 (2) A final decision of ~~the~~**A** disciplinary subcommittee
14 finding a violation of this article, article 7, or article 8 ~~shall~~
15 ~~be by~~**REQUIRES** a majority vote of the members appointed and serving
16 on the disciplinary subcommittee.

17 (3) A final decision of ~~the~~**A** disciplinary subcommittee
18 imposing a sanction under this article, article 7, or article 8 or
19 a final decision of ~~the~~**A** disciplinary subcommittee other than a
20 final decision described in subsection (2) requires a majority vote
21 of the members appointed and serving on the disciplinary
22 subcommittee with an affirmative vote by at least 1 public member.

23 (4) ~~The chairperson of each disciplinary subcommittee shall be~~
24 ~~a public member and shall be appointed by the chair of the~~**A** board
25 or task force **SHALL APPOINT A PUBLIC MEMBER OF THE DISCIPLINARY**
26 **SUBCOMMITTEE OF THAT BOARD OR TASK FORCE AS THE CHAIRPERSON OF THAT**
27 **DISCIPLINARY SUBCOMMITTEE. THE CHAIR OF A BOARD OR TASK FORCE SHALL**

1 NOT SERVE AS A MEMBER OF THE DISCIPLINARY SUBCOMMITTEE OF THAT
2 BOARD OR TASK FORCE.

3 (5) The department may review a final decision of ~~the-A~~
4 disciplinary subcommittee within 30 days after the date of the
5 disciplinary subcommittee's decision. If the department determines
6 that the action taken by ~~the-A~~ disciplinary subcommittee does not
7 protect the health, safety, and welfare of the public, the
8 department, with the approval of the board chair, may set aside the
9 decision of the disciplinary subcommittee and issue a different
10 final action. The final action of the department ~~shall serve~~ **SERVES**
11 as the final action on the matter and is subject to judicial review
12 in the same manner as the final decision of the disciplinary
13 subcommittee.

14 (6) Beginning January 1, 2015, the department shall include on
15 its public licensing and registration website each final decision
16 ~~where~~ **THAT IMPOSES** disciplinary action ~~is taken~~ against a licensee,
17 including the reason for and description of that disciplinary
18 action.

19 Sec. 16245. (1) Except as otherwise provided in this section
20 **OR SECTION 16245A**, an individual whose license is limited,
21 suspended, or revoked under this part may apply to his or her board
22 or task force for a reinstatement of a revoked or suspended license
23 or reclassification of a limited license pursuant to section 16247
24 or 16249.

25 (2) Except as otherwise provided in this section **OR SECTION**
26 **16245A**, an individual whose registration is suspended or revoked
27 under this part may apply to his or her board for a reinstatement

1 of a suspended or revoked registration pursuant to section 16248.

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

5 (4) Except as otherwise provided in this ~~subsection~~, **SECTION**
6 **OR SECTION 16245A**, in case of a revoked license or registration, an
7 applicant shall not apply for reinstatement before the expiration
8 of 3 years after the effective date of the revocation. ~~In-EXCEPT AS~~
9 **OTHERWISE PROVIDED IN THIS SECTION OR SECTION 16245A, IN** the case
10 of a license or registration that was revoked for a violation of
11 section 16221(b) (vii) or (xiii), a violation of section 16221(c) (iv)
12 consisting of a felony conviction, any other felony conviction
13 involving a controlled substance, or a violation of section
14 16221(q), an applicant shall not apply for reinstatement before the
15 expiration of 5 years after the effective date of the revocation.
16 ~~In the case of a license or registration that was permanently~~
17 ~~revoked for a violation of section 16221(b) (xiii), the former~~
18 ~~licensee or registrant is ineligible for reinstatement. The~~
19 department shall return an application for reinstatement received
20 before the expiration of the applicable time period under this
21 subsection. ~~or if the applicant is ineligible for reinstatement~~
22 ~~under this subsection.~~

23 (5) The department shall provide an opportunity for a hearing
24 before final rejection of an application for reinstatement unless
25 the application is returned because the applicant is ineligible for
26 reinstatement under subsection (4) **OR (9)**.

27 (6) Based upon the recommendation of the disciplinary

1 subcommittee for each health profession, the department shall adopt
2 guidelines to establish specific criteria to be met by an applicant
3 for reinstatement under this article, article 7, or article 8. The
4 criteria may include corrective measures or remedial education as a
5 condition of reinstatement. If a board or task force, in
6 reinstating a license or registration, deviates from the guidelines
7 adopted under this subsection, the board or task force shall state
8 the reason for the deviation on the record.

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

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

21 (9) **AN INDIVIDUAL WHOSE LICENSE IS PERMANENTLY REVOKED UNDER**
22 **SECTION 16221 IS INELIGIBLE FOR REINSTATEMENT. THE DEPARTMENT SHALL**
23 **RETURN AN APPLICATION FOR REINSTATEMENT RECEIVED IF THE APPLICANT**
24 **IS INELIGIBLE FOR REINSTATEMENT UNDER THIS SUBSECTION.**

25 **SEC. 16245A. (1) IN ADDITION TO ANY OTHER PENALTY, REMEDY, OR**
26 **SANCTION UNDER THIS ACT, AN INDIVIDUAL WHOSE LICENSE, REGISTRATION,**
27 **OR AUTHORIZATION TO ENGAGE IN THE PRACTICE OF A HEALTH PROFESSION**

1 HAS BEEN PERMANENTLY REVOKED UNDER THIS ARTICLE IS PERMANENTLY
2 INELIGIBLE FOR A LICENSE, REGISTRATION, OR AUTHORIZATION TO ENGAGE
3 IN THE PRACTICE OF A HEALTH PROFESSION UNDER THIS ARTICLE BY THE
4 DEPARTMENT OR A BOARD OR TASK FORCE.

5 (2) THE DEPARTMENT OR A BOARD OR TASK FORCE SHALL NOT ISSUE A
6 LICENSE OR REGISTRATION TO AN INDIVIDUAL WHOSE LICENSE,
7 REGISTRATION, OR AUTHORIZATION TO ENGAGE IN THE PRACTICE OF A
8 HEALTH PROFESSION HAS BEEN PERMANENTLY REVOKED UNDER THIS ARTICLE.
9 THE DEPARTMENT OR A BOARD OR TASK FORCE SHALL NOT OTHERWISE
10 AUTHORIZE AN INDIVIDUAL TO ENGAGE IN THE PRACTICE OF A HEALTH
11 PROFESSION UNDER THIS ARTICLE IF THAT INDIVIDUAL'S LICENSE,
12 REGISTRATION, OR AUTHORIZATION TO ENGAGE IN THE PRACTICE OF A
13 HEALTH PROFESSION HAS BEEN PERMANENTLY REVOKED UNDER THIS ARTICLE.

14 Sec. 16247. (1) ~~A-EXCEPT AS OTHERWISE PROVIDED IN THIS~~
15 ~~SECTION,~~ A board or task force may reinstate a license or issue a
16 limited license to an individual whose license has been suspended
17 or revoked under this part if after a hearing the board or task
18 force is satisfied by clear and convincing evidence that the
19 applicant is of good moral character, is able to practice the
20 profession with reasonable skill and safety to patients, has met
21 the criteria in the ~~rules promulgated~~ **GUIDELINES ADOPTED** under
22 section 16245(6), and should be permitted in the public interest to
23 practice. Pursuant to the ~~rules promulgated~~ **GUIDELINES ADOPTED**
24 under section 16245(6), as a condition of reinstatement, a
25 disciplinary subcommittee, upon the recommendation of a board or
26 task force, may impose a disciplinary or corrective measure
27 authorized under this part and require that the licensee attend a

1 school or program selected by the board or task force to take
2 designated courses or training to become competent or proficient in
3 those areas of practice in which the board or task force finds the
4 licensee to be deficient. The board or task force may require a
5 statement on a form approved by it from the chief administrator of
6 the school or program attended or the person responsible for the
7 training certifying that the licensee has achieved the required
8 competency or proficiency.

9 (2) As a condition of reinstatement, a board or task force
10 shall place the licensee on probation for 1 year under conditions
11 set by the board or task force. If a licensee whose license has
12 been revoked cannot apply for reinstatement for 5 years after the
13 date of revocation, then, as a condition of reinstatement, the
14 board or task force shall require the licensee to take and pass the
15 current licensure examination.

16 (3) A board or task force shall not reinstate a license
17 suspended or revoked for grounds stated in section 16221(b) (i),
18 (iii), or (iv) until it finds that the licensee is mentally or
19 physically able to practice with reasonable skill and safety to
20 patients. The board or task force may require further examination
21 of the licensee, at the licensee's expense, necessary to verify
22 that the licensee is mentally or physically able. ~~A- THE BOARD OR~~
23 ~~TASK FORCE SHALL GIVE A~~ licensee affected by ~~DESCRIBED IN~~ this
24 section ~~shall be afforded~~ the opportunity at reasonable intervals
25 to demonstrate that he or she can resume competent practice in
26 accordance with standards of acceptable and prevailing practice.

27 (4) **A BOARD OR TASK FORCE SHALL NOT REINSTATE A LICENSE OR**

1 **ISSUE A LIMITED LICENSE TO AN INDIVIDUAL WHOSE LICENSE HAS BEEN**
2 **PERMANENTLY REVOKED UNDER SECTION 16221.**

3 Sec. 16248. (1) ~~A—EXCEPT AS OTHERWISE PROVIDED IN THIS~~
4 **SECTION, A** registration board may reinstate a registration revoked
5 or suspended under this part if, after a hearing, the board is
6 satisfied by clear and convincing evidence that the individual is
7 of good moral character, has the education and experience as
8 required in this article, has met the criteria in the ~~rules~~
9 ~~promulgated~~ **GUIDELINES ADOPTED** under section 16245(6), and will use
10 the title lawfully and act in accordance with this article.

11 (2) **A BOARD OR TASK FORCE SHALL NOT REINSTATE A REGISTRATION**
12 **OR ISSUE A LIMITED REGISTRATION TO AN INDIVIDUAL WHOSE LICENSE HAS**
13 **BEEN PERMANENTLY REVOKED UNDER SECTION 16221.**

14 Sec. 16249. ~~A—EXCEPT AS OTHERWISE PROVIDED IN SECTION 16245A,~~
15 **A** disciplinary subcommittee may reclassify a license limited under
16 this part to alter or remove the limitations if, after a hearing,
17 it is satisfied that the applicant will practice the profession
18 safely and competently within the area of practice and under
19 conditions stipulated by the disciplinary subcommittee, and should
20 be permitted in the public interest to so practice. The
21 disciplinary subcommittee may require the submission of information
22 necessary to make the determination required for reclassification.
23 As a condition of reclassification, the disciplinary subcommittee
24 may require that the licensee take an examination or attend a
25 school or program selected by the disciplinary subcommittee to take
26 designated courses or training to become competent in those areas
27 of practice the disciplinary subcommittee determines necessary for

1 reclassification. The disciplinary subcommittee may require a
2 statement on a form approved by it from the chief administrator of
3 the school or program attended or the person responsible for the
4 training certifying that the licensee has achieved the required
5 competency.

6 Enacting section 1. This amendatory act takes effect 90 days
7 after the date it is enacted into law.

8 Enacting section 2. This amendatory act does not take effect
9 unless all of the following bills of the 97th Legislature are
10 enacted into law:

11 (a) House Bill No. 5839.

12 (b) House Bill No. 5840.

13 (c) House Bill No. 5841.