

HOUSE BILL No. 4279

February 15, 1991, Introduced by Reps. Gubow, Gire, Law, Niederstadt, Scott, Perry Bullard, Fitzgerald, Leland, Profit, Bandstra and Dobronski and referred to the Committee on Public Health.

A bill to amend sections 7105, 7109, 7306, 7311, 7314, 7315, 7316, 7502, 7515, 16211, 16215, 16221, 16224, 16226, 16227, 16231, 16232, 16233, 16234, 16235, 16236, 16241, 16243, 16244, 16245, 16247, 16248, 16249, 16261, 16291, 16294, 16648, 17011, 17050, 17550, 17747, 17763, 17767, 17768, 18117, 18237, 18835, 20175, and 21513 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

sections 7105 and 7109 as amended by Act No. 60 of the Public Acts of 1988, sections 7306, 7314, 16211, 16231, 16233, 16243, 16244, and 20175 as amended by Act No. 174 of the Public Acts of 1986, section 7311 as amended and sections 7315 and 7316 as added by Act No. 30 of the Public Acts of 1988, section 7502 as amended by Act No. 251 of the Public Acts of 1982, section 16215 as amended by Act No. 279 of the Public Acts of 1990, sections 16221

and 16226 as amended by Act No. 15 of the Public Acts of 1989, section 16245 as amended by Act No. 462 of the Public Acts of 1988, section 16648 as added by Act No. 89 of the Public Acts of 1983, section 17011 as amended by Act No. 248 of the Public Acts of 1990, sections 17050 and 17550 as amended by Act No. 247 of the Public Acts of 1990, section 17747 as amended by Act No. 333 of the Public Acts of 1990, section 17768 as amended by Act No. 250 of the Public Acts of 1987, section 18117 as added by Act No. 421 of the Public Acts of 1988, and section 21513 as amended by Act No. 179 of the Public Acts of 1990, being sections 333.7105, 333.7109, 333.7306, 333.7311, 333.7314, 333.7315, 333.7316, 333.7502, 333.7515, 333.16211, 333.16215, 333.16221, 333.16224, 333.16226, 333.16227, 333.16231, 333.16232, 333.16233, 333.16234, 333.16235, 333.16236, 333.16241, 333.16243, 333.16244, 333.16245, 333.16247, 333.16248, 333.16249, 333.16261, 333.16291, 333.16294, 333.16648, 333.17011, 333.17050, 333.17550, 333.17747, 333.17763, 333.17767, 333.17768, 333.18117, 333.18237, 333.18835, 333.20175, and 333.21513 of the Michigan Compiled Laws; to add sections 16216, 16222, 16231a, 16237, 16238, 16239, 20176a, and 20194; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 7105, 7109, 7306, 7311, 7314, 7315,
 2 7316, 7502, 7515, 16211, 16215, 16221, 16224, 16226, 16227,
 3 16231, 16232, 16233, 16234, 16235, 16236, 16241, 16243, 16244,
 4 16245, 16247, 16248, 16249, 16261, 16291, 16294, 16648, 17011,
 5 17050, 17550, 17747, 17763, 17767, 17768, 18117, 18237, 18835,
 6 20175, and 21513 of Act No. 368 of the Public Acts of 1978,

1 sections 7105 and 7109 as amended by Act No. 60 of the Public
2 Acts of 1988, sections 7306, 7314, 16211, 16231, 16233, 16243,
3 16244, and 20175 as amended by Act No. 174 of the Public Acts of
4 1986, section 7311 as amended and sections 7315 and 7316 as added
5 by Act No. 30 of the Public Acts of 1988, section 7502 as amended
6 by Act No. 251 of the Public Acts of 1982, section 16215 as
7 amended by Act No. 279 of the Public Acts of 1990, sections 16221
8 and 16226 as amended by Act No. 15 of the Public Acts of 1989,
9 section 16245 as amended by Act No. 462 of the Public Acts of
10 1988, section 16648 as added by Act No. 89 of the Public Acts of
11 1983, section 17011 as amended by Act No. 248 of the Public Acts
12 of 1990, sections 17050 and 17550 as amended by Act No. 247 of
13 the Public Acts of 1990, section 17747 as amended by Act No. 333
14 of the Public Acts of 1990, section 17768 as amended by Act
15 No. 250 of the Public Acts of 1987, section 18117 as added by Act
16 No. 421 of the Public Acts of 1988, and section 21513 as amended
17 by Act No. 179 of the Public Acts of 1990, being sections
18 333.7105, 333.7109, 333.7306, 333.7311, 333.7314, 333.7315,
19 333.7316, 333.7502, 333.7515, 333.16211, 333.16215, 333.16221,
20 333.16224, 333.16226, 333.16227, 333.16231, 333.16232, 333.16233,
21 333.16234, 333.16235, 333.16236, 333.16241, 333.16243, 333.16244,
22 333.16245, 333.16247, 333.16248, 333.16249, 333.16261, 333.16291,
23 333.16294, 333.16648, 333.17011, 333.17050, 333.17550, 333.17747,
24 333.17763, 333.17767, 333.17768, 333.18117, 333.18237, 333.18835,
25 333.20175, and 333.21513 of the Michigan Compiled Laws are
26 amended and sections 16216, 16222, 16231a, 16237, 16238, 16239,
27 20176a, and 20194 are added to read as follows:

1 Sec. 7105. (1) "Deliver" or "delivery" means the actual,
2 constructive, or attempted transfer from 1 person to another of a
3 controlled substance, whether or not there is an agency
4 relationship.

5 (2) "DISCIPLINARY BOARD" MEANS THE HEALTH PROFESSIONALS DIS-
6 CIPLINARY BOARD CREATED IN SECTION 16216.

7 (3) ~~(2)~~ "Dispense" means to deliver or issue a controlled
8 substance to an ultimate user or research subject by or pursuant
9 to the lawful order of a practitioner, including the prescribing,
10 administering, or compounding necessary to prepare the substance
11 for the delivery or issuance.

12 (4) ~~(3)~~ "Dispenser" means a practitioner who dispenses.

13 (5) ~~(4)~~ "Distribute" means to deliver other than by admin-
14 istering or dispensing a controlled substance.

15 (6) ~~(5)~~ "Distributor" means a person who distributes.

16 (7) ~~(6)~~ "Drug" means a substance recognized as a drug in
17 the official United States pharmacopoeia, official homeopathic
18 pharmacopoeia of the United States, or official national formula-
19 ry, or any supplement to any of them; a substance intended for
20 use in the diagnosis, cure, mitigation, treatment, or prevention
21 of disease in human beings or animals; a substance other than
22 food intended to affect the structure or any function of the body
23 of human beings or animals; or, a substance intended for use as a
24 component of any article specified in this subsection. It does
25 not include a device or its components, parts, or accessories.

26 (8) ~~(7)~~ "Human consumption" means application, injection,
27 inhalation, or ingestion by a human being.

1 Sec. 7109. (1) "Person" means a person as defined in
2 section 1106 or a governmental entity.

3 (2) "Poppy straw" means all parts, except the seeds, of the
4 opium poppy, after mowing.

5 (3) "Practitioner" means:

6 (a) A prescriber or pharmacist, a scientific investigator as
7 defined by rule of the administrator, or other person licensed,
8 registered, or otherwise permitted to distribute, dispense, con-
9 duct research with respect to, or administer a controlled sub-
10 stance in the course of professional practice or research in this
11 state, ~~except the holder of a retiree's limited license issued~~
12 ~~pursuant to article 15,~~ including an individual in charge of a
13 dog pound or animal shelter licensed or registered by the depart-
14 ment of agriculture pursuant to Act No. 287 of the Public Acts of
15 1969, being sections 287.331 to 287.340 of the Michigan Compiled
16 Laws, for the limited purpose of buying, possessing, and adminis-
17 tering a commercially prepared, premixed solution of sodium pen-
18 tobarbital to practice euthanasia on animals.

19 (b) A pharmacy, hospital, or other institution or place of
20 professional practice licensed, registered, or otherwise permit-
21 ted to distribute, prescribe, dispense, conduct research with
22 respect to, or administer a controlled substance in the course of
23 professional practice or research in this state.

24 (4) "Prescription form" means a printed form which is autho-
25 rized and intended for use by a prescribing practitioner to pre-
26 scribe controlled substances or prescription drugs and which

1 meets the requirements of rules promulgated by the
2 administrator.

3 (5) "Production" means the manufacture, planting, cultiva-
4 tion, growing, or harvesting of a controlled substance.

5 (6) "Ultimate user" means an individual who lawfully pos-
6 sesses a controlled substance for personal use or for the use of
7 a member of the individual's household, or for administering to
8 an animal owned by the individual or by a member of the
9 individual's household.

10 Sec. 7306. (1) The administrator shall grant a license to
11 an applicant to manufacture or distribute controlled substances
12 included in sections ~~7212~~ 7211 to 7220, unless the administra-
13 tor determines that the issuance of that license would be incon-
14 sistent with the public interest. ~~A license shall not be~~
15 ~~granted to the holder of a retiree's limited license issued pur-~~
16 ~~suant to article 15.~~ In determining the public interest, the
17 administrator shall consider all of the following factors:

18 (a) Maintenance of effective controls against diversion of
19 controlled substances to other than legitimate and professionally
20 recognized therapeutic, scientific, or industrial channels.

21 (b) Compliance with applicable state and local law.

22 (c) A conviction of the applicant under a federal or state
23 law relating to a controlled substance.

24 (d) Past experience in the manufacture or distribution of
25 controlled substances, and the existence in the applicant's
26 establishment of effective controls against diversion.

1 (e) Furnishing by the applicant of false or fraudulent
2 material in an application filed under this article.

3 (f) Suspension or revocation of the applicant's federal reg-
4 istration to manufacture or distribute controlled substances as
5 authorized by federal law.

6 (g) Any other factor relevant to and consistent with the
7 public health and safety.

8 (2) Licensure under subsection (1) does not entitle a
9 licensee to manufacture and distribute controlled substances in
10 schedules 1 or 2 other than those specified in the license.

11 (3) A practitioner shall be licensed to dispense or pre-
12 scribe any controlled substances or to conduct research with con-
13 trolled substances in schedules 2 to 5 if the practitioner is
14 authorized to dispense, prescribe, or conduct research under the
15 laws of this state. The administrator need not require separate
16 licensure under this article for a practitioner engaging in
17 research with nonnarcotic controlled substances in schedules 2 to
18 5 if the licensee is licensed under this article in another
19 capacity. A practitioner registered under federal law to conduct
20 research with schedule 1 substances may conduct research with
21 schedule 1 substances in this state upon furnishing the adminis-
22 trator evidence of that federal registration.

23 (4) Compliance by a manufacturer or distributor with the
24 provisions of the federal law as to registration, excluding fees,
25 entitles the manufacturer or distributor to be licensed under
26 this article.

1 (5) Licensure under subsection (1) does not authorize a
2 licensee to dispense, manufacture, distribute, or prescribe a
3 controlled substance if the dispensing, manufacture, distribu-
4 tion, or prescribing is not for legitimate and professionally
5 recognized therapeutic, scientific, or industrial purposes or is
6 not in the scope of practice of a practitioner-licensee.

7 Sec. 7311. (1) A license under section 7306 to manufacture,
8 distribute, prescribe, or dispense a controlled substance may be
9 denied, suspended, or revoked by the ~~administrator~~ DISCIPLINARY
10 BOARD upon a finding that an applicant for licensure or a
11 licensee is subject to any of the following:

12 (a) The applicant or licensee has furnished false or fraudu-
13 lent material information in an application filed under this
14 article.

15 (b) The applicant's or licensee's federal registration to
16 manufacture, distribute, or dispense controlled substances has
17 been surrendered, suspended, or revoked.

18 (c) The applicant or licensee has promoted a controlled sub-
19 stance to the general public.

20 (d) The applicant or licensee is not a practitioner, manu-
21 facturer, or distributor.

22 (e) The applicant or licensee has not maintained effective
23 controls against diversion of controlled substances to other than
24 legitimate and professionally recognized therapeutic, scientific,
25 or industrial uses.

26 (f) The applicant or licensee is not in compliance with
27 applicable federal, state, and local laws.

1 (g) The applicant or licensee has manufactured, distributed,
2 or dispensed a controlled substance for other than legitimate or
3 professionally recognized therapeutic, scientific, or industrial
4 purposes or outside the scope of practice of the
5 practitioner-licensee or applicant.

6 (h) The applicant or licensee has violated or attempted to
7 violate, directly or indirectly, assisted in or abetted the vio-
8 lation of, or conspired to violate this article or rules of the
9 administrator promulgated under this article.

10 (2) The ~~administrator may limit revocation or suspension of~~
11 ~~a license~~ DISCIPLINARY BOARD MAY RESTRICT A REVOCATION OR
12 SUSPENSION under subsection (1) to the particular controlled sub-
13 stance as to which grounds for revocation or suspension exist.

14 (3) A license under section 7306 to manufacture, distribute,
15 prescribe, or dispense a controlled substance shall be denied or
16 revoked by the ~~administrator~~ DISCIPLINARY BOARD if the appli-
17 cant or licensee has been convicted of a felony under a state or
18 federal law relating to a controlled substance.

19 (4) If the ~~administrator~~ DISCIPLINARY BOARD suspends or
20 revokes a license OR IF A LICENSE IS VOID UNDER SUBSECTION (6),
21 all controlled substances owned or possessed by the licensee at
22 the time of suspension or the effective date of the revocation
23 order may be placed under seal or seized at the discretion of the
24 ~~administrator~~ DISCIPLINARY BOARD. ~~A disposition may not be~~
25 ~~made~~ THE DISCIPLINARY BOARD SHALL NOT DISPOSE of CONTROLLED sub-
26 stances under seal or seizure until the time for taking an appeal
27 has elapsed or until all appeals have been concluded, unless a

1 court, upon application therefor, orders the sale of perishable
2 CONTROLLED substances and the deposit of the proceeds of the sale
3 with the court. Upon a revocation order becoming final OR AFTER
4 A LICENSE BECOMES VOID UNDER SUBSECTION (6) BECAUSE THE
5 LICENSEE'S LICENSE TO PRACTICE IS REVOKED UNDER ARTICLE 15 AND
6 THAT REVOCATION ORDER BECOMES FINAL, THE DISCIPLINARY BOARD MAY
7 ORDER all controlled substances ~~may~~ UNDER SEAL OR SEIZURE TO be
8 forfeited to this state.

9 (5) The ~~administrator~~ DISCIPLINARY BOARD shall promptly
10 notify the bureau of all orders suspending or revoking a license
11 and all forfeitures of controlled substances.

12 (6) A license under section 7306 to manufacture, distribute,
13 prescribe, or dispense a controlled substance ~~shall be suspended~~
14 ~~or revoked by the administrator upon receipt of notice from the~~
15 ~~appropriate licensing board that a~~ IS AUTOMATICALLY VOID IF THE
16 DISCIPLINARY BOARD SUSPENDS OR REVOKES THE licensee's license to
17 practice ~~a health care profession~~ under article 15. ~~has been~~
18 ~~suspended or revoked.~~

19 (7) Subject to subsection (8), if the administrator OR THE
20 DISCIPLINARY BOARD finds that an applicant or licensee has been
21 convicted of a misdemeanor or a felony under a state or federal
22 law relating to a controlled substance, the applicant or licensee
23 shall not have a direct financial interest in, or be employed BY,
24 in a capacity in which the individual has direct access to con-
25 trolled substances, ~~by~~ a person who is licensed under this
26 article to manufacture, distribute, prescribe, or dispense a
27 controlled substance for a period of not less than 3 years after

1 the date of conviction. An individual who violates this
2 subsection may be punished by a civil fine of not more than
3 \$25,000.00 in a proceeding in the circuit court.

4 (8) Subsection (7) applies only to a conviction for a misde-
5 meanor ~~which~~ THAT is directly related to the manufacture,
6 delivery, possession, possession with intent to manufacture or
7 deliver, use, distribution, prescription, or dispensing of a con-
8 trolled substance. Subsection (7) does not apply to a conviction
9 for a misdemeanor based upon an unintentional error or omission
10 involving a clerical or record-keeping function.

11 Sec. 7314. (1) ~~Except as provided in subsection (3),~~
12 ~~before denying, suspending, or revoking~~ BEFORE THE DISCIPLINARY
13 BOARD SUSPENDS OR REVOKES OR DENIES a license ~~, or denying~~ OR a
14 renewal of a license, the ~~administrator~~ DISCIPLINARY BOARD
15 shall serve on the applicant or licensee an order to show cause
16 why the application or license should not be denied, revoked, or
17 suspended, or why the renewal should not be denied. The order to
18 show cause shall contain a statement of the basis ~~therefor~~ FOR
19 THE ORDER and shall call upon the applicant or licensee to appear
20 before the ~~administrator~~ DISCIPLINARY BOARD OR A HEARINGS
21 EXAMINER at a time and place not less than 30 days after the date
22 of service of the order. A show cause order for a denial of
23 renewal of a license shall be served not later than 30 days
24 before expiration of the license. These proceedings shall be
25 conducted ~~in accordance with the administrative procedures act~~
26 ~~of 1969~~ without regard to any criminal prosecution or other
27 proceeding. A proceeding to deny renewal of a license shall not

1 abate the existing license, which shall remain in effect pending
2 the outcome of the administrative hearing.

3 (2) ~~The administrator~~ PURSUANT TO RULES PROMULGATED BY THE
4 DEPARTMENT, THE DEPARTMENT may suspend, without an order to show
5 cause, a license simultaneously with the institution of proceed-
6 ings under section 7311 or where renewal of licensure is refused,
7 if the ~~administrator~~ DEPARTMENT finds that there is an imminent
8 danger to the public health or safety ~~which~~ THAT warrants this
9 action. The suspension shall continue in effect until conclusion
10 of the proceedings, including judicial review, unless sooner
11 withdrawn by the ~~administrator~~ HEARINGS EXAMINER or dissolved
12 by a court of competent jurisdiction.

13 ~~(3) Subsection (1) shall not apply to the suspension or~~
14 ~~revocation of a license by the administrator pursuant to section~~
15 ~~7311(5).~~

16 Sec. 7315. (1) An individual whose license is ~~limited~~
17 RESTRICTED, suspended, or revoked under this part may apply to
18 the ~~board~~ ADMINISTRATOR for a reinstatement of a revoked or
19 suspended license or TO THE DISCIPLINARY BOARD FOR removal of a
20 ~~limited revocation or suspension~~ RESTRICTION as to a particular
21 controlled substance. ~~pursuant to section 7316.~~

22 (2) In case of a revoked license, THE ADMINISTRATOR SHALL
23 NOT ACCEPT an application for reinstatement ~~shall not be~~
24 ~~accepted~~ before the expiration of 3 years after the date of
25 revocation.

1 (3) ~~An~~ THE ADMINISTRATOR SHALL PROVIDE AN opportunity for
2 a hearing ~~shall be provided~~ before final rejection of an
3 application for reinstatement.

4 Sec. 7316. The administrator may reinstate a revoked or
5 suspended license to an individual whose license has been sus-
6 pended or revoked under this article ~~or remove a limited revoca-~~
7 ~~tion or suspension as to a particular controlled substance~~ if,
8 after a hearing, the administrator is satisfied that the appli-
9 cant is of good moral character, HAS MET THE CRITERIA IN THE
10 RULES PROMULGATED UNDER SECTION 16245(6), and should be permitted
11 in the public interest to have his or her license reinstated.
12 ~~or the limited revocation or suspension removed.~~ As a condition
13 of reinstatement, THE DISCIPLINARY BOARD, UPON THE RECOMMENDATION
14 OF the administrator, may impose a disciplinary or corrective
15 measure authorized under this article. In determining the public
16 interest, the administrator shall consider the factors set forth
17 in section 7306(1)(a) to (g).

18 Sec. 7502. (1) An inspection AGENT or investigatory agent
19 of the ~~administrator or of the~~ department of licensing and reg-
20 ulation may do any of the following:

21 (a) Execute and serve search warrants, arrest warrants,
22 administrative inspection warrants, subpoenas, and summonses
23 issued under the authority of this state.

24 (b) Seize property pursuant to this article.

25 (c) Perform other law enforcement duties the administrator
26 or the department of licensing and regulation designates.

1 (2) An agent of the department of treasury designated by the
2 commissioner of revenue may exercise the powers specified in
3 subsection (1) with regard to the seizure of property under sec-
4 tion 7521(e) and (f) after notification of the department of
5 state police or any other local law enforcement agency having
6 jurisdiction.

7 Sec. 7515. (1) The administrator may cooperate with federal
8 and other state agencies in discharging its responsibilities as
9 to traffic in controlled substances and in suppressing the abuse
10 of controlled substances. To this end, the administrator may:

11 (a) Arrange for the exchange of information among governmen-
12 tal officials as to the use and abuse of controlled substances.

13 (b) Coordinate and cooperate in training programs as to con-
14 trolled substance law enforcement at local and state levels.

15 (c) Cooperate with the bureau by establishing a centralized
16 unit to accept, catalogue, file, and collect statistics, includ-
17 ing records of drug dependent individuals and other controlled
18 substance law offenders in this state, and make the information
19 available for federal, state, and local law enforcement
20 purposes. The administrator shall not furnish the name or iden-
21 tity of a patient or research subject whose identity could not be
22 obtained under section 7516.

23 (d) Conduct programs of eradication aimed at destroying wild
24 or illicit growth of plant species from which controlled sub-
25 stances may be extracted.

26 (2) Results, information, and evidence received from the
27 bureau relating to the regulatory functions of this article,

1 including results of inspections conducted by it, may be relied
2 and acted upon by the ~~administrator~~ DISCIPLINARY BOARD in the
3 exercise of its regulatory functions under this article.

4 Sec. 16211. (1) The department shall create and maintain a
5 permanent historical record for each licensee with respect to
6 information and data transmitted pursuant to law.

7 (2) The individual historical record shall include a written
8 allegation against the licensee ~~which~~ THAT is substantiated
9 after investigation.

10 (3) The individual historical record may include other items
11 concerning a licensee's record of practice THAT the appropriate
12 LICENSURE board OR THE DISCIPLINARY BOARD determines will facili-
13 tate proper and periodic review, but only those items as desig-
14 nated by rules of the LICENSURE board OR THE DISCIPLINARY BOARD.

15 (4) The ~~board or its representative~~ DEPARTMENT shall
16 promptly review the entire file of a licensee, including all
17 prior matters with respect to which no action was taken at the
18 time, with respect to whom there is received 1 OR MORE OF THE
19 FOLLOWING:

20 (a) A notice of revocation, suspension, or limitation of
21 staff privileges by a licensed hospital.

22 (b) A written allegation ~~which is substantiated after~~
23 ~~investigation~~ OF A VIOLATION OF THIS ARTICLE OR A RULE PROMUL-
24 GATED UNDER THIS ARTICLE.

25 (c) A notice of disciplinary action by a health professional
26 society.

1 ~~(d) An adverse malpractice settlement, award, or judgment.~~

2 (D) ~~(e)~~ Written notice of ~~a conviction of a felony.~~ 1 OR

3 MORE OF THE FOLLOWING:

4 (i) A FELONY CONVICTION.

5 (ii) A MISDEMEANOR CONVICTION, IF THE MISDEMEANOR INVOLVES 1

6 OR MORE OF THE FOLLOWING:

7 (A) A MAXIMUM TERM OF IMPRISONMENT OF 2 YEARS.

8 (B) THE ILLEGAL DELIVERY, POSSESSION, OR USE OF ALCOHOL OR A
9 CONTROLLED SUBSTANCE.

10 (E) NOTICE THAT A LICENSEE OR REGISTRANT IS INELIGIBLE TO
11 PARTICIPATE AS A PROVIDER IN A FEDERALLY FUNDED HEALTH INSURANCE
12 OR HEALTH BENEFITS PROGRAM BASED UPON THE LICENSEE'S OR
13 REGISTRANT'S FAILURE TO MEET THE PROGRAM'S STANDARDS OF PROFES-
14 SIONAL PRACTICE. A CERTIFIED COPY OF THE ACTION OR FINAL ORDER
15 MAKING THE LICENSEE OR REGISTRANT INELIGIBLE IS SUFFICIENT NOTICE
16 FOR PURPOSES OF THIS SUBDIVISION.

17 (F) A REPORT OR NOTICE UNDER SECTION 16222.

18 (5) The department shall retain written allegations ~~against~~
19 ~~a licensee which~~ THAT are unsubstantiated for 2 years, after
20 which they may be removed from the registry, if THE REMOVAL IS
21 approved by the ~~appropriate~~ DISCIPLINARY board.

22 (6) Except as provided in section ~~+623+(5)-~~ 16231(7), a
23 licensee or applicant may review his or her individual historical
24 record.

25 Sec. 16215. (1) A licensee who holds a license other than a
26 health profession subfield license may delegate to a licensed or
27 unlicensed individual who is otherwise qualified by education,

1 training, or experience the performance of selected acts, tasks,
 2 or functions where the acts, tasks, or functions fall within the
 3 scope of practice of the licensee's profession and will be per-
 4 formed under the licensee's supervision. ~~An~~ A LICENSEE WHO
 5 HOLDS A LICENSE OTHER THAN A HEALTH PROFESSION SUBFIELD LICENSE
 6 SHALL NOT DELEGATE AN act, task, or function ~~shall not be~~
 7 ~~delegated~~ under this section ~~which~~ THAT, under standards of
 8 acceptable and prevailing practice, requires the level of educa-
 9 tion, skill, and judgment required of a licensee under this
 10 article.

11 (2) Except as otherwise provided in this subsection, a
 12 licensee under part 170 or 175 shall delegate an act, task, or
 13 function that involves the performance of a procedure that
 14 requires the use of surgical instrumentation only to an individ-
 15 ual who is licensed under article 15. This subsection does not
 16 apply if the unlicensed individual is 1 or more of the following
 17 and if the procedure is directly supervised by a licensed physi-
 18 cian or osteopathic physician who is physically present during
 19 the performance of the procedure or if the unlicensed individual
 20 is performing acupuncture:

21 (a) A student enrolled in a school of medicine or osteo-
 22 pathic medicine approved by the Michigan board of medicine or the
 23 Michigan board of osteopathic medicine and surgery.

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

1 (3) A LICENSURE board may promulgate rules to further
2 prohibit or otherwise restrict delegation of specific acts,
3 tasks, or functions to a licensed or unlicensed individual
4 ~~where~~ IF the board determines that the delegation constitutes
5 or may constitute a danger to the health, safety, or welfare of
6 the patient or public.

7 (4) To promote safe and competent practice, a LICENSURE
8 board may promulgate rules to specify conditions under which, and
9 categories and types of licensed and unlicensed individuals for
10 whom, closer supervision may be required.

11 (5) An individual who performs acts, tasks, or functions
12 delegated pursuant to this section does not violate the part
13 ~~which~~ THAT regulates the scope of practice of that health
14 profession.

15 SEC. 16216. (1) THE HEALTH PROFESSIONALS DISCIPLINARY BOARD
16 IS CREATED IN THE DEPARTMENT. THE DISCIPLINARY BOARD SHALL CON-
17 SIST OF 5 MEMBERS, 2 OF WHOM SHALL SERVE ON A PERMANENT BASIS AND
18 3 OF WHOM SHALL SERVE ON A TEMPORARY, ROTATING BASIS. THE 2 PER-
19 MANENT MEMBERS SHALL BE PUBLIC MEMBERS APPOINTED BY THE GOVERNOR
20 WITH THE ADVICE AND CONSENT OF THE SENATE. THE 2 PERMANENT MEM-
21 BERS SHALL NOT BE MEMBERS OF THE SAME POLITICAL PARTY. THE 3
22 MEMBERS SERVING ON A TEMPORARY, ROTATING BASIS SHALL BE LICENSEE
23 OR REGISTRANT MEMBERS OF THE LICENSURE OR REGISTRATION BOARD OR
24 TASK FORCE FOR THE HEALTH PROFESSION OF THE INDIVIDUAL WHO IS THE
25 SUBJECT OF A DISCIPLINARY ACTION UNDER THIS ARTICLE. THE TEMPO-
26 RARY MEMBERS OF THE DISCIPLINARY BOARD SHALL BE APPOINTED FOR A
27 2-YEAR TERM BY THEIR RESPECTIVE LICENSING OR REGISTRATION BOARDS

1 OR TASK FORCE AND SHALL IF ABLE SERVE UNTIL ALL PROCEEDINGS
2 PERTAINING TO A PARTICULAR DISCIPLINARY ACTION UNDER THIS ARTICLE
3 ARE COMPLETED. A VACANCY ON THE DISCIPLINARY BOARD CREATED BY
4 THE LOSS OR UNAVAILABILITY OF A TEMPORARY MEMBER MAY BE FILLED BY
5 THE APPROPRIATE LICENSING OR REGISTRATION BOARD OR TASK FORCE IN
6 THE SAME MANNER AS THE ORIGINAL APPOINTMENT OR AS DESIGNATED BY
7 THE CHAIRPERSON OF THE APPROPRIATE LICENSING OR REGISTRATION
8 BOARD OR TASK FORCE. A VACANCY ON THE DISCIPLINARY BOARD CREATED
9 BY THE LOSS OF A PERMANENT MEMBER SHALL BE FILLED BY THE GOVERNOR
10 IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

11 (2) A FINAL DECISION OF THE DISCIPLINARY BOARD FINDING A
12 VIOLATION OF THIS ARTICLE OR ARTICLE 7 SHALL BE BY A MAJORITY
13 VOTE OF THE MEMBERS APPOINTED AND SERVING ON THE DISCIPLINARY
14 BOARD.

15 (3) A FINAL DECISION OF THE DISCIPLINARY BOARD IMPOSING A
16 SANCTION UNDER THIS ARTICLE OR ARTICLE 7 OR A FINAL DECISION OF
17 THE DISCIPLINARY BOARD OTHER THAN A FINAL DECISION DESCRIBED IN
18 SUBSECTION (2) REQUIRES A MAJORITY VOTE OF THE MEMBERS APPOINTED
19 AND SERVING ON THE DISCIPLINARY BOARD WITH AN AFFIRMATIVE VOTE BY
20 AT LEAST 1 OF THE PERMANENT, PUBLIC MEMBERS.

21 (4) THE CHAIRPERSON OF THE DISCIPLINARY BOARD SHALL BE 1 OF
22 THE PERMANENT, PUBLIC MEMBERS AND SHALL BE APPOINTED BY THE
23 GOVERNOR.

24 Sec. 16221. ~~The department may investigate activities~~
25 ~~related to the practice of a health profession by a licensee, a~~
26 ~~registrant, or an applicant for licensure or registration. The~~
27 ~~department may hold hearings, administer oaths, and order~~

1 ~~relevant testimony to be taken and shall report its findings to~~
 2 ~~the appropriate board. or appropriate task force.~~ The

3 DISCIPLINARY board shall proceed under section 16226 if ~~the~~
 4 ~~board~~ IT finds that any of the following grounds exist:

5 (a) A violation of general duty, consisting of negligence or
 6 failure to exercise due care, including negligent delegation to
 7 or supervision of employees or other individuals, whether or not
 8 injury results, or any conduct, practice, or condition which
 9 impairs, or may impair, the ability to safely and skillfully
 10 practice the health profession.

11 (b) Personal disqualifications, consisting of any of the
 12 following:

13 (i) Incompetence.

14 (ii) ~~Substance~~ SUBJECT TO SECTIONS 16165 TO 16170A,
 15 SUBSTANCE abuse as defined in section 6107.

16 (iii) Mental or physical inability reasonably related to and
 17 adversely affecting the licensee's ability to practice in a safe
 18 and competent manner.

19 (iv) Declaration of mental incompetence by a court of compe-
 20 tent jurisdiction.

21 (v) Conviction of a misdemeanor PUNISHABLE BY IMPRISONMENT
 22 FOR A MAXIMUM TERM OF 2 YEARS, A MISDEMEANOR INVOLVING THE ILLE-
 23 GAL DELIVERY, POSSESSION, OR USE OF ALCOHOL OR A CONTROLLED
 24 SUBSTANCE, or A felony. ~~reasonably related to and adversely~~
 25 ~~affecting the licensee's ability to practice in a safe and compe-~~
 26 ~~tent manner.~~ A certified copy of the court record ~~shall be~~ IS
 27 conclusive evidence of the conviction.

1 (vi) Lack of good moral character.

2 (vii) Conviction of a criminal offense under sections 520a
3 to 520l of the Michigan penal code, Act No. 328 of the Public
4 Acts of 1931, being sections 750.520a to 750.520l of the Michigan
5 Compiled Laws. A certified copy of the court record ~~shall be~~
6 IS conclusive evidence of the conviction.

7 (viii) Conviction of a violation of section 492a of the
8 Michigan penal code, Act No. 328 of the Public Acts of 1931,
9 being section 750.492a of the Michigan Compiled Laws. A certi-
10 fied copy of the court record ~~shall be~~ IS conclusive evidence
11 of the conviction.

12 (ix) Conviction of a misdemeanor or felony involving fraud
13 in obtaining or attempting to obtain fees related to the practice
14 of a health profession. A certified copy of the court record
15 ~~shall be~~ IS conclusive evidence of the conviction.

16 (x) FINAL ADMINISTRATIVE ACTION BY A LICENSURE, REGISTRA-
17 TION, OR DISCIPLINARY BOARD INVOLVING THE HOLDER OF, OR AN APPLI-
18 CANT FOR, A LICENSE OR REGISTRATION REGULATED BY ANOTHER STATE OR
19 A TERRITORY OF THE UNITED STATES. A CERTIFIED COPY OF THE RECORD
20 OF THE BOARD IS CONCLUSIVE EVIDENCE OF THE FINAL ACTION.

21 (xi) CONVICTION OF A MISDEMEANOR THAT IS REASONABLY RELATED
22 TO OR THAT ADVERSELY AFFECTS THE LICENSEE'S ABILITY TO PRACTICE
23 IN A SAFE AND COMPETENT MANNER. A CERTIFIED COPY OF THE COURT
24 RECORD IS CONCLUSIVE EVIDENCE OF THE CONVICTION.

25 (c) Prohibited acts, consisting of any of the following:

26 (i) Fraud or deceit in obtaining or renewing a license.

1 (ii) Permitting the license to be used by an unauthorized
2 person.

3 (iii) Practice outside the scope of a license.

4 (iv) Obtaining, possessing, or attempting to obtain or pos-
5 sess a controlled substance as defined in section 7104 or a drug
6 as defined in section 7105 without lawful authority; or selling,
7 prescribing, giving away, or administering drugs for other than
8 lawful diagnostic or therapeutic purposes.

9 (d) Unethical business practices, consisting of any of the
10 following:

11 (i) False or misleading advertising.

12 (ii) Dividing fees for referral of patients or accepting
13 kickbacks on medical or surgical services, appliances, or medica-
14 tions purchased by or in behalf of patients.

15 (iii) Fraud or deceit in obtaining or attempting to obtain
16 third party reimbursement.

17 (e) Unprofessional conduct, consisting of any of the
18 following:

19 (i) Misrepresentation to a consumer or patient or in obtain-
20 ing or attempting to obtain third party reimbursement in the
21 course of professional practice.

22 (ii) Betrayal of a professional confidence.

23 (iii) Promotion for personal gain of an unnecessary drug,
24 device, treatment, procedure, or service.

25 (iv) Directing or requiring an individual to purchase or
26 secure a drug, device, treatment, procedure, or service from

1 another person, place, facility, or business in which the
2 licensee has a financial interest.

3 (f) Failure to report a change of name or address within 30
4 days after the change occurs.

5 (g) A violation, or aiding or abetting in a violation, of
6 this article or of rules promulgated under this article.

7 (h) Failure to comply with a subpoena issued pursuant to
8 this part, FAILURE TO RESPOND TO A COMPLAINT, OR FAILURE TO
9 APPEAR AT A SETTLEMENT CONFERENCE OR A HEARING BEFORE A HEARINGS
10 EXAMINER OR THE DISCIPLINARY BOARD.

11 (i) Failure to pay an installment of an assessment levied
12 pursuant to section 2504 of the insurance code of 1956, Act
13 No. 218 of the Public Acts of 1956, as amended, being section
14 500.2504 of the Michigan Compiled Laws, within 60 days after
15 notice by the appropriate board.

16 (j) A violation of section 17013 or 17513.

17 SEC. 16222. (1) A LICENSEE OR REGISTRANT HAVING KNOWLEDGE
18 THAT ANOTHER LICENSEE OR REGISTRANT HAS COMMITTED A VIOLATION
19 UNDER SECTION 16221 SHALL REPORT THE CONDUCT AND THE NAME OF THE
20 SUBJECT OF THE REPORT TO THE DEPARTMENT. INFORMATION OBTAINED BY
21 THE DEPARTMENT UNDER THIS SUBSECTION IS CONFIDENTIAL AND IS
22 SUBJECT TO SECTIONS 16238 AND 16244(2). FAILURE OF A LICENSEE OR
23 REGISTRANT TO MAKE A REPORT UNDER THIS SUBSECTION DOES NOT GIVE
24 RISE TO A CIVIL CAUSE OF ACTION FOR DAMAGES AGAINST THE LICENSEE
25 OR REGISTRANT. THIS SUBSECTION DOES NOT APPLY TO A LICENSEE OR
26 REGISTRANT WHO OBTAINS THE KNOWLEDGE OF A VIOLATION WHILE
27 PROVIDING PROFESSIONAL SERVICES TO THE LICENSEE OR REGISTRANT TO

1 WHOM THE KNOWLEDGE APPLIES, WHO IS SERVING ON A DULY CONSTITUTED
2 ETHICS COMMITTEE OF A PROFESSIONAL ASSOCIATION, OR WHO IS SERVING
3 ON A COMMITTEE ASSIGNED A PROFESSIONAL REVIEW FUNCTION IN A
4 HEALTH FACILITY OR AGENCY.

5 (2) UNLESS THE LICENSEE OR REGISTRANT MAKING THE REPORT OTH-
6 ERWISE AGREES IN WRITING, THE IDENTITY OF THE LICENSEE OR REGIS-
7 TRANT MAKING THE REPORT SHALL REMAIN CONFIDENTIAL UNLESS DISCI-
8 PLINARY PROCEEDINGS UNDER THIS PART ARE INITIATED AGAINST THE
9 SUBJECT OF THE REPORT AND THE LICENSEE OR REGISTRANT MAKING THE
10 REPORT IS REQUIRED TO TESTIFY IN THE PROCEEDINGS.

11 (3) A LICENSEE OR REGISTRANT SHALL NOTIFY THE DEPARTMENT OF
12 A CRIMINAL CONVICTION OR A DISCIPLINARY LICENSING OR REGISTRATION
13 ACTION TAKEN BY ANOTHER STATE AGAINST THE LICENSEE OR REGISTRANT
14 WITHIN 30 DAYS AFTER THE DATE OF THE CONVICTION OR ACTION. THIS
15 SUBSECTION INCLUDES, BUT IS NOT LIMITED TO, A DISCIPLINARY ACTION
16 THAT IS STAYED PENDING APPEAL.

17 Sec. 16224. (1) Failure or refusal to submit to an examina-
18 tion ~~which~~ THAT THE DEPARTMENT, a LICENSURE OR REGISTRATION
19 board OR TASK FORCE, THE DISCIPLINARY BOARD, OR A HEARINGS
20 EXAMINER is authorized to require under this part after reason-
21 able notice and opportunity ~~—~~ FOR A HEARING constitutes a
22 ground for DENIAL OR suspension of a license OR REGISTRATION
23 until the examination is taken.

24 (2) Additional grounds for disciplinary action may be found
25 in a part dealing with a specific health profession.

26 Sec. 16226. (1) After finding the existence of 1 or more of
27 the grounds for DISCIPLINARY board action listed in section

1 16221, ~~a~~ THE DISCIPLINARY board shall impose 1 or more of the
2 following sanctions for each violation:

3 <u>Violations of Section 16221</u>	<u>Sanctions</u>
4 Subdivision (a),	Probation, limitation
5 6 (b)(ii),	RESTRICTION, denial, suspension, revocation,
7 (b)(iv),	restitution, COMMUNITY SERVICE,
8 9 (b)(vi), or	or fine.
10 (b)(vii)	
11 Subdivision (b)(viii)	Revocation OR DENIAL.
12 Subdivision (b)(i), 13 14 (b)(iii),	Limitation RESTRICTION, suspen- sion, revocation, denial,
15 (b)(v), or (b)(ix), 16 (B)(x), OR (B)(xi)	probation, restitution, COMMUNITY SERVICE, or fine.
17 18 Subdivision (c)(i) 19 20 21	Denial, revocation, suspension, probation, limitation RESTRICTION, COMMUNITY SERVICE, or fine.
22 Subdivision (c)(ii) 23 24	Denial, suspension, revocation, restitution, COMMUNITY SERVICE, or fine.

1 Subdivision (c)(iii) Probation, denial, suspension,
2 revocation, restitution,
3 COMMUNITY SERVICE, or fine.

4 Subdivision (c)(iv) Fine, probation, denial,
5 or (d)(iii) suspension, revocation,
6 COMMUNITY SERVICE,
7 or restitution.

8 Subdivision (d)(i) Reprimand, fine, probation,
9 COMMUNITY SERVICE, DENIAL,
10 or (d)(ii) or restitution.

11 Subdivision (e)(i) Reprimand, fine, probation,
12 ~~limitation~~ RESTRICTION, sus-
13 pension, COMMUNITY SERVICE,
14 DENIAL, or restitution.

15 Subdivision (e)(ii) Reprimand, probation,
16 or (h) suspension, restitution,
17 COMMUNITY SERVICE, DENIAL, or
18 fine.

19 Subdivision (e)(iii) Reprimand, fine, probation,
20 or (e)(iv) suspension, revocation,
21 ~~limitation~~ RESTRICTION,
22 COMMUNITY SERVICE, DENIAL, or
23 restitution.

24 Subdivision (f) Reprimand or fine.

25 Subdivision (g) Reprimand, probation, denial,
26 suspension, revocation,
27 ~~limitation~~ RESTRICTION,

1 violation ~~of~~ of this article or of rules promulgated under this
2 article. ~~A~~ THE DISCIPLINARY board shall suspend or revoke ~~a~~
3 THE registration ~~permitted to~~ OF A REGISTRANT WHO PERMITS HIS
4 OR HER REGISTRATION TO be used by an unauthorized person.

5 (2) For an offense committed within 2 years after a previous
6 offense of the same kind, ~~a~~ THE DISCIPLINARY board ~~shall~~ MAY
7 suspend or revoke the license or registration.

8 (3) Section 16226 and this section do not limit any other
9 sanction or additional ~~disciplinary~~ action ~~a~~ THE DISCIPLINARY
10 board is authorized to impose or take.

11 Sec. 16231. (1) A person or governmental entity who
12 believes that a violation of this article or a rule promulgated
13 under this article or a ground for disciplinary action UNDER SEC-
14 TION 16221 exists may ~~notify~~ MAKE AN ALLEGATION OF THAT FACT TO
15 the department in writing. ~~The department shall provide the~~
16 ~~appropriate board or its representative with the allegation 5~~
17 ~~days after its receipt.~~

18 ~~(2) If, upon reviewing an allegation, the board or its rep-~~
19 ~~resentative determines there is reasonable basis to believe a~~
20 ~~ground set forth in section 16221(a), (b)(i), (b)(v), or (c)(iii)~~
21 ~~exists, the department shall investigate. If a board or its rep-~~
22 ~~resentative does not make a determination within 30 days, the~~
23 ~~department shall make the determination.~~

24 (2) ~~(3) If~~ SUBJECT TO SUBSECTION (4), IF, upon reviewing
25 an APPLICATION OR AN allegation OR A LICENSEE'S FILE UNDER
26 SECTION 16211(4), the department determines there is a reasonable
27 basis to believe the existence of A VIOLATION OF ARTICLE 7 OR A

1 RULE PROMULGATED UNDER ARTICLE 7 OR grounds ~~other than those~~
2 FOR DISCIPLINARY ACTION listed in ~~subsection (2)~~ SECTION 16221,
3 the department, WITH THE AUTHORIZATION OF THE CHAIRPERSON OF THE
4 APPLICANT'S, LICENSEE'S, OR REGISTRANT'S LICENSING OR REGISTRA-
5 TION BOARD OR TASK FORCE OR HIS OR HER DESIGNEE, SHALL
6 INVESTIGATE. IF THE CHAIRPERSON OR HIS OR HER DESIGNEE FAILS TO
7 GRANT OR DENY AUTHORIZATION WITHIN 10 DAYS AFTER RECEIPT OF A
8 REQUEST FOR AUTHORIZATION, THE DEPARTMENT shall investigate.

9 (3) ~~(4)~~ Upon the receipt of information reported pursuant
10 to section 16243(2) ~~which~~ THAT indicates 3 or more malpractice
11 settlements, awards, or judgments against a licensee in ~~any con-~~
12 ~~secutive 10 year~~ A period OF 5 CONSECUTIVE YEARS or 1 or more
13 malpractice settlements, awards, or judgments against a licensee
14 totaling more than \$200,000.00 in ~~any consecutive 10 year~~ A
15 period OF 5 CONSECUTIVE YEARS, whether or not a judgment or award
16 is stayed pending appeal, ~~a board shall notify the department,~~
17 ~~and~~ the department shall investigate.

18 (4) BEFORE SEEKING AUTHORIZATION TO CONDUCT AN INVESTIGATION
19 PURSUANT TO SUBSECTION (2) OR BEFORE CONDUCTING AN INVESTIGATION
20 UNDER SUBSECTION (3), THE DEPARTMENT MAY SCHEDULE AN INFORMAL
21 REGULATORY REVIEW CONFERENCE. THE CONFERENCE SHALL INCLUDE THE
22 APPLICANT, LICENSEE, OR REGISTRANT, THE APPLICANT'S, LICENSEE'S,
23 OR REGISTRANT'S ATTORNEY, 1 MEMBER OF THE DEPARTMENT'S STAFF, AND
24 ANY OTHER INDIVIDUALS APPROVED BY THE DEPARTMENT. ONE MEMBER OF
25 THE APPROPRIATE LICENSING OR REGISTRATION BOARD OR TASK FORCE MAY
26 ATTEND THE CONFERENCE AND PROVIDE SUCH ASSISTANCE AS NEEDED. THE
27 APPLICANT, LICENSEE, OR REGISTRANT SHALL BE NOTIFIED IN ADVANCE

1 OF ALL PARTIES ATTENDING THE CONFERENCE. IF AN AGREEMENT IS NOT
2 REACHED AT THE CONFERENCE, THE DEPARTMENT MAY REQUEST AUTHORIZA-
3 TION FOR AN INVESTIGATION PURSUANT TO SUBSECTION (2) OR SHALL
4 CONDUCT AN INVESTIGATION UNDER SUBSECTION (3). IF AN AGREEMENT
5 IS REACHED, THE DEPARTMENT SHALL SUBMIT A WRITTEN STATEMENT OUT-
6 LINING THE TERMS OF THE AGREEMENT, OR A STIPULATION AND FINAL
7 ORDER, IF APPLICABLE, OR A REQUEST FOR DISMISSAL TO THE DISCI-
8 PLINARY BOARD FOR APPROVAL. IF THE AGREEMENT OR STIPULATION AND
9 FINAL ORDER OR REQUEST FOR DISMISSAL IS REJECTED BY THE DISCI-
10 PLINARY BOARD, AN INVESTIGATION IS AUTHORIZED AND THE DEPARTMENT
11 SHALL INVESTIGATE. A PARTY SHALL NOT MAKE A TRANSCRIPT OF THE
12 CONFERENCE. ALL RECORDS AND DOCUMENTS OF THE CONFERENCE ARE CON-
13 FIDENTIAL AND SUBJECT TO SECTION 16238, EXCEPT A COMPLAINT, AN
14 AGREEMENT, AND A STIPULATION AND FINAL ORDER THAT HAS BEEN
15 APPROVED BY THE DISCIPLINARY BOARD.

16 (5) Within 45 days after ~~receipt of the allegation~~ AN
17 INVESTIGATION IS AUTHORIZED UNDER SUBSECTION (2) OR COMPLETED
18 UNDER SUBSECTION (3), the department shall ~~notify the person~~
19 ~~making the allegation in writing of actions taken. The depart-~~
20 ~~ment shall transmit a response to the appropriate board within 5~~
21 ~~days after the date sent.~~ DO 1 OR MORE OF THE FOLLOWING:

22 (A) REQUEST AUTHORIZATION TO ISSUE A COMPLAINT PURSUANT TO
23 SUBSECTION (8).

24 (B) ISSUE A SUMMARY SUSPENSION.

25 (C) ISSUE A CEASE AND DESIST ORDER.

26 (D) REQUEST AUTHORIZATION UNDER SUBSECTION (8) TO DISMISS
27 THE MATTER.

1 (6) UPON RECEIPT OF A WRITTEN REQUEST FROM THE DEPARTMENT,
2 THE DISCIPLINARY BOARD MAY, FOR GOOD CAUSE SHOWN, GRANT THE
3 DEPARTMENT AN EXTENSION OF NOT MORE THAN 30 ADDITIONAL DAYS TO
4 TAKE ACTION UNDER SUBSECTION (5).

5 (7) ~~(6) The~~ UNLESS THE PERSON SUBMITTING THE ALLEGATION
6 OTHERWISE AGREES IN WRITING, THE DEPARTMENT SHALL KEEP THE iden-
7 tity of a person submitting the allegation ~~shall remain~~ confi-
8 dential until disciplinary proceedings under this part are initi-
9 ated against the subject of the allegation and the person making
10 the allegation is required to testify in the proceedings.

11 (8) ~~(7) The Michigan board of medicine created in part 170,~~
12 ~~or the Michigan board of osteopathic medicine and surgery created~~
13 ~~in part 175, or the official designee of either board shall~~
14 ~~review allegations on a priority basis. Those allegations which~~
15 ~~are determined by the boards or their official designees to pose~~
16 ~~a serious risk to the public health and welfare shall be reviewed~~
17 ~~before all other allegations received by the boards or their~~
18 ~~representatives.~~ EXCEPT AS OTHERWISE PROVIDED IN
19 SECTION 16233(5), THE CHAIRPERSON OF THE APPLICANT'S, LICENSEE'S,
20 OR REGISTRANT'S LICENSURE OR REGISTRATION BOARD OR HIS OR HER
21 DESIGNEES SHALL REVIEW THE REQUEST OF THE DEPARTMENT MADE UNDER
22 SUBSECTION (5) AND SHALL AUTHORIZE EITHER THE ISSUANCE OF A COM-
23 PLAINT OR DISMISSAL OF THE MATTER. IF THE CHAIRPERSON OR HIS OR
24 HER DESIGNEES FAIL TO AUTHORIZE THE ISSUANCE OF A COMPLAINT OR
25 DISMISSAL OF THE MATTER WITHIN 10 DAYS AFTER RECEIVING THE
26 DEPARTMENT'S REQUEST UNDER SUBSECTION (5), THE DEPARTMENT SHALL
27 ISSUE A COMPLAINT OR THE DEPARTMENT MAY DISMISS THE MATTER.

1 (9) IF A COMPLAINT IS AUTHORIZED OR REQUIRED UNDER
2 SUBSECTION (8), THE DEPARTMENT SHALL ISSUE A COMPLAINT AND MAIL
3 IT TO THE APPLICANT, LICENSEE, OR REGISTRANT WHO IS THE SUBJECT
4 OF THE COMPLAINT BY REGULAR MAIL AND BY CERTIFIED MAIL, RETURN
5 RECEIPT REQUESTED, AT THE APPLICANT'S, LICENSEE'S, OR
6 REGISTRANT'S LAST KNOWN ADDRESS, SERVE THE COMPLAINT UPON THE
7 APPLICANT, LICENSEE, OR REGISTRANT, OR MAKE A REASONABLE ATTEMPT
8 TO SERVE THE COMPLAINT UPON THE APPLICANT, LICENSEE, OR
9 REGISTRANT. FOR PURPOSES OF THIS SUBSECTION, SERVICE IS EFFEC-
10 TIVE AT THE TIME OF MAILING, AND NONDELIVERY DOES NOT AFFECT THE
11 VALIDITY OF THE SERVICE IF THE NONDELIVERY WAS CAUSED BY THE
12 REFUSAL OF THE APPLICANT, LICENSEE, OR REGISTRANT TO ACCEPT
13 SERVICE. THE COMPLAINT SHALL INCLUDE A NOTICE THAT THE APPLI-
14 CANT, LICENSEE, OR REGISTRANT WHO IS THE SUBJECT OF THE COMPLAINT
15 HAS 30 DAYS FROM THE DATE OF RECEIPT TO RESPOND IN WRITING TO THE
16 COMPLAINT. THE DEPARTMENT OF LICENSING AND REGULATION MAY CON-
17 SULT WITH THE DEPARTMENT OF ATTORNEY GENERAL BEFORE PREPARING A
18 COMPLAINT UNDER THIS SUBSECTION.

19 (10) THE DEPARTMENT SHALL TREAT THE FAILURE OF THE APPLI-
20 CANT, LICENSEE, OR REGISTRANT TO RESPOND TO THE COMPLAINT WITHIN
21 THE 30-DAY PERIOD SET FORTH IN SUBSECTION (9) AS AN ADMISSION OF
22 THE ALLEGATIONS CONTAINED IN THE COMPLAINT. THE DEPARTMENT SHALL
23 NOTIFY THE DISCIPLINARY BOARD OF THE INDIVIDUAL'S FAILURE TO
24 RESPOND AND SHALL FORWARD A COPY OF THE COMPLAINT TO THE DISCI-
25 PLINARY BOARD. THE DISCIPLINARY BOARD MAY THEN IMPOSE AN APPRO-
26 PRIATE SANCTION UNDER THIS ARTICLE OR ARTICLE 7.

1 (11) BEFORE A HEARING IS HELD BY A HEARINGS EXAMINER UNDER
2 SECTION 16231A, THE DEPARTMENT SHALL CONDUCT A SETTLEMENT
3 CONFERENCE BETWEEN DEPARTMENT STAFF AND THE APPLICANT, LICENSEE,
4 OR REGISTRANT. THE APPLICANT, LICENSEE, OR REGISTRANT MAY BE
5 REPRESENTED AT THE SETTLEMENT CONFERENCE BY HIS OR HER ATTORNEY.
6 ONE MEMBER OF THE APPROPRIATE LICENSING OR REGISTRATION BOARD OR
7 TASK FORCE MAY ATTEND THE CONFERENCE AND PROVIDE SUCH ASSISTANCE
8 AS NEEDED. IF A SETTLEMENT IS REACHED, THE DEPARTMENT SHALL PRE-
9 PARE A PROPOSED CONSENT AND STIPULATION AND FINAL ORDER AND
10 SUBMIT THE PROPOSED CONSENT AND STIPULATION AND FINAL ORDER TO
11 THE DISCIPLINARY BOARD FOR APPROVAL. IF A SETTLEMENT IS NOT
12 REACHED, THE COMPLAINT SHALL BE REFERRED TO A HEARINGS EXAMINER
13 PURSUANT TO SECTION 16231A. A PARTY SHALL NOT MAKE A TRANSCRIPT
14 OF THE CONFERENCE. ALL RECORDS AND DOCUMENTS OF THE CONFERENCE
15 ARE CONFIDENTIAL AND SUBJECT TO SECTION 16238, EXCEPT A CONSENT
16 AND STIPULATION AND FINAL ORDER THAT HAVE BEEN APPROVED BY THE
17 DISCIPLINARY BOARD.

18 (12) THE APPLICANT, LICENSEE, OR REGISTRANT MAY REQUEST AND
19 BE GRANTED 1 CONTINUANCE BY THE DEPARTMENT FOR GOOD CAUSE SHOWN.
20 FAILURE OF AN APPLICANT, LICENSEE, OR REGISTRANT TO ATTEND OR BE
21 REPRESENTED AT A SETTLEMENT CONFERENCE HELD UNDER SUBSECTION (11)
22 SHALL BE TREATED BY THE DEPARTMENT AS AN ADMISSION OF THE ALLEGA-
23 TIONS CONTAINED IN THE COMPLAINT. THE DEPARTMENT SHALL NOTIFY
24 THE DISCIPLINARY BOARD OF THE INDIVIDUAL'S FAILURE TO ATTEND AND
25 SHALL FORWARD A COPY OF THE COMPLAINT TO THE DISCIPLINARY BOARD.
26 THE DISCIPLINARY BOARD MAY THEN IMPOSE AN APPROPRIATE SANCTION
27 UNDER THIS ARTICLE OR ARTICLE 7.

1 SEC. 16231A. (1) IF A SETTLEMENT IS NOT REACHED AT A
2 SETTLEMENT CONFERENCE HELD UNDER SECTION 16231(11), THE DEPART-
3 MENT SHALL HOLD A HEARING BEFORE A HEARINGS EXAMINER EMPLOYED BY
4 OR UNDER CONTRACT TO THE DEPARTMENT. THE HEARINGS EXAMINER SHALL
5 CONDUCT THE HEARING WITHIN 45 DAYS AFTER RECEIPT OF A REFERRAL
6 UNDER SECTION 16231(11). ONE MEMBER OF THE APPROPRIATE LICENSING
7 OR REGISTRATION BOARD OR TASK FORCE MAY ATTEND THE HEARING AND
8 PROVIDE SUCH ASSISTANCE AS NEEDED.

9 (2) THE HEARINGS EXAMINER SHALL DETERMINE IF THERE ARE
10 GROUNDS FOR DISCIPLINARY ACTION UNDER SECTION 16221 OR IF THE
11 APPLICANT, LICENSEE, OR REGISTRANT HAS VIOLATED ARTICLE 7 OR A
12 RULE PROMULGATED UNDER ARTICLE 7. THE HEARINGS EXAMINER SHALL
13 PREPARE RECOMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR
14 TRANSMITTAL TO THE DISCIPLINARY BOARD. THE HEARINGS EXAMINER
15 SHALL NOT RECOMMEND OR IMPOSE PENALTIES.

16 (3) THE APPLICANT, LICENSEE, OR REGISTRANT WHO IS THE
17 SUBJECT OF THE COMPLAINT OR THE DEPARTMENT OF ATTORNEY GENERAL
18 MAY REQUEST AND BE GRANTED 1 CONTINUANCE BY THE HEARINGS EXAMINER
19 FOR GOOD CAUSE SHOWN.

20 (4) THE APPLICANT, LICENSEE, OR REGISTRANT MAY BE REPRE-
21 SENTED AT THE HEARING BY LEGAL COUNSEL. THE DEPARTMENT SHALL BE
22 REPRESENTED AT THE HEARING BY AN ASSISTANT ATTORNEY GENERAL FROM
23 THE DEPARTMENT OF ATTORNEY GENERAL.

24 (5) UNLESS A CONTINUANCE HAS BEEN GRANTED UNDER
25 SUBSECTION (3), FAILURE OF AN APPLICANT, LICENSEE, OR REGISTRANT
26 TO APPEAR OR BE REPRESENTED AT A SCHEDULED HEARING SHALL BE
27 TREATED BY THE HEARINGS EXAMINER AS AN ADMISSION OF THE

1 ALLEGATIONS CONTAINED IN THE COMPLAINT. THE HEARINGS EXAMINER
2 SHALL NOTIFY THE DISCIPLINARY BOARD OF THE INDIVIDUAL'S FAILURE
3 TO APPEAR AND FORWARD A COPY OF THE COMPLAINT AND ANY OTHER RELE-
4 VANT RECORDS TO THE DISCIPLINARY BOARD. THE DISCIPLINARY BOARD
5 MAY THEN IMPOSE AN APPROPRIATE SANCTION UNDER THIS ARTICLE OR
6 ARTICLE 7.

7 (6) THE DEPARTMENT SHALL PROMULGATE RULES TO GOVERN HEARINGS
8 AND RELATED PRELIMINARY PROCEEDINGS.

9 Sec. 16232. (1) ~~An~~ THE DEPARTMENT SHALL PROVIDE AN oppor-
10 tunity for a hearing ~~shall be provided~~ in connection with the
11 denial, reclassification, ~~limitation~~ REINSTATEMENT,
12 RESTRICTION, suspension, or revocation of a license or a proceed-
13 ing to reprimand, fine, ORDER COMMUNITY SERVICE OR RESTITUTION,
14 or place a licensee on probation.

15 (2) ~~An~~ THE DEPARTMENT SHALL PROVIDE AN opportunity for a
16 hearing ~~shall be provided~~ in connection with the denial,
17 RESTRICTION, suspension, ~~or~~ revocation, OR REINSTATEMENT of a
18 registration or A proceeding to reprimand, ~~or~~ fine, ~~a~~
19 ~~registrant~~ ORDER COMMUNITY SERVICE OR RESTITUTION, OR PLACE A
20 REGISTRANT ON PROBATION.

21 (3) THE DISCIPLINARY BOARD SHALL HOLD A HEARING WITHIN 60
22 DAYS AFTER RECEIPT OF THE RECOMMENDED FINDINGS OF FACT AND CON-
23 CLUSIONS OF LAW FROM A HEARINGS EXAMINER. A HEARING HELD UNDER
24 THIS SECTION IS SUBJECT TO SECTION 16237.

25 (4) AFTER ISSUING A FINAL ORDER OF DISCIPLINE, THE DISCI-
26 PLINARY BOARD SHALL TRANSMIT A COPY OF THE FINAL ORDER TO THE
27 APPROPRIATE LICENSURE OR REGISTRATION BOARD OR TASK FORCE.

1 (5) ONLY THE DEPARTMENT SHALL PROMULGATE RULES GOVERNING
2 HEARINGS UNDER SUBSECTIONS (1) AND (2) AND RELATED PRELIMINARY
3 PROCEEDINGS.

4 Sec. 16233. (1) The department may conduct an investigation
5 necessary to administer and enforce this article. Investigations
6 may include written, oral, or practical tests of a licensee's OR
7 REGISTRANT'S competency. THE DEPARTMENT MAY ESTABLISH A SPECIAL
8 PARALEGAL UNIT TO ASSIST THE DEPARTMENT.

9 (2) ~~The appropriate board or its representative shall be~~
10 ~~informed of investigations, enforcement actions, and hearings~~
11 ~~undertaken pursuant to this article and shall have the right to~~
12 ~~consult with and recommend to the department on the conduct of~~
13 ~~those activities at any stage of the proceeding.~~ THE DEPARTMENT
14 MAY ORDER AN INDIVIDUAL TO CEASE AND DESIST FROM A VIOLATION OF
15 THIS ARTICLE OR ARTICLE 7 OR A RULE PROMULGATED UNDER THIS ARTI-
16 CLE OR ARTICLE 7.

17 (3) AN INDIVIDUAL ORDERED TO CEASE AND DESIST UNDER
18 SUBSECTION (2) IS ENTITLED TO A HEARING BEFORE A HEARINGS
19 EXAMINER IF THE INDIVIDUAL FILES A WRITTEN REQUEST FOR A HEARING
20 WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THE CEASE AND DESIST
21 ORDER. THE DEPARTMENT SHALL SUBSEQUENTLY PRESENT THE RECOMMENDED
22 FINDINGS OF FACT AND CONCLUSIONS OF LAW TO THE DISCIPLINARY BOARD
23 TO DETERMINE WHETHER THE ORDER IS TO REMAIN IN EFFECT OR BE
24 DISSOLVED.

25 (4) UPON A VIOLATION OF A CEASE AND DESIST ORDER ISSUED
26 UNDER SUBSECTION (2), THE DEPARTMENT OF ATTORNEY GENERAL MAY
27 APPLY IN THE CIRCUIT COURT TO RESTRAIN AND ENJOIN, TEMPORARILY OR

1 PERMANENTLY, AN INDIVIDUAL FROM FURTHER VIOLATING THE CEASE AND
2 DESIST ORDER.

3 (5) ~~(3)~~ The ~~appropriate board~~ DEPARTMENT may summarily
4 suspend a license OR REGISTRATION if the public health, safety,
5 or welfare requires emergency action in accordance with ~~section~~
6 ~~92 of the administrative procedures act of 1969~~ RULES PROMUL-
7 GATED BY THE DEPARTMENT. IF A LICENSEE OR REGISTRANT IS CON-
8 VICTED OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR A MAXIMUM
9 TERM OF 2 YEARS, A MISDEMEANOR INVOLVING THE ILLEGAL DELIVERY,
10 POSSESSION, OR USE OF ALCOHOL OR A CONTROLLED SUBSTANCE, OR A
11 FELONY, THE DISCIPLINARY BOARD SHALL FIND THAT THE PUBLIC HEALTH,
12 SAFETY, OR WELFARE REQUIRES EMERGENCY ACTION UNDER THE RULES
13 PROMULGATED BY THE DEPARTMENT AND SHALL SUSPEND THE LICENSEE'S
14 LICENSE OR THE REGISTRANT'S REGISTRATION. THE RULES PROMULGATED
15 BY THE DEPARTMENT UNDER THIS SUBSECTION SHALL PROVIDE THE OPPOR-
16 TUNITY FOR A HEARING WITHOUT UNDUE DELAY. IF A HEARING IS
17 REQUESTED UNDER THIS SUBSECTION, SECTION 16231(11) AND (12) DO
18 NOT APPLY.

19 ~~(4) A board may delegate determination of a violation and~~
20 ~~the imposition of a sanction in a contested case to a hearing~~
21 ~~examiner whose decision shall constitute final administrative~~
22 ~~action unless the board authorizes review.~~

23 ~~(5) A board or hearing examiner which suspends or revokes a~~
24 ~~license shall immediately notify, in writing, the Michigan board~~
25 ~~of pharmacy or its designated or established authority.~~

26 Sec. 16234. (1) The ~~department may authorize a hearings~~
27 ~~examiner to~~ DISCIPLINARY BOARD OR A HEARINGS EXAMINER MAY hold

1 hearings and administer oaths ~~—~~ and order testimony to be taken
2 at a hearing or by deposition. ~~conducted pursuant to the admin-~~
3 ~~istrative procedures act of 1969.~~

4 (2) An accused person has the right to be represented at
5 ~~the~~ A hearing by legal counsel.

6 Sec. 16235. (1) Upon application by the attorney general or
7 a party to a ~~contested case~~ DISCIPLINARY PROCEEDING, the cir-
8 cuit court may issue a subpoena requiring a person to appear
9 before ~~a hearings examiner in a contested case~~ THE DISCIPLINARY
10 BOARD OR A HEARINGS EXAMINER or before the department in an
11 investigation and be examined with reference to a matter within
12 the scope of that ~~contested case or investigation~~ DISCIPLINARY
13 PROCEEDING and to produce books, papers, or documents pertaining
14 to that ~~contested case, or investigation~~ DISCIPLINARY
15 PROCEEDING. A SUBPOENA ISSUED UNDER THIS SUBSECTION MAY REQUIRE
16 A PERSON TO PRODUCE BOOKS, PAPERS, AND DOCUMENTS PERTAINING TO
17 ALL OF A LICENSEE'S OR REGISTRANT'S PATIENTS IN A HEALTH FACILITY
18 ON A PARTICULAR DAY.

19 (2) A copy of a record of the council, a LICENSURE board,
20 THE DISCIPLINARY BOARD, A HEARINGS EXAMINER, or a task force cer-
21 tified by a person designated by the director ~~shall be~~ IS prima
22 facie evidence of the matters recorded and ~~shall be~~ IS admissi-
23 ble as evidence in a proceeding in this state with the same force
24 and effect as if the original were produced.

25 Sec. 16236. (1) In a hearing OR AN INVESTIGATION where
26 mental or physical inability OR SUBSTANCE ABUSE under section
27 16221 is alleged, the DISCIPLINARY board or A hearings examiner

1 OR THE DEPARTMENT WITH THE APPROVAL OF THE DISCIPLINARY BOARD may
2 require the APPLICANT, licensee, OR REGISTRANT to submit to a
3 mental or physical examination conducted by physicians or other
4 appropriate health professionals designated by the DISCIPLINARY
5 board OR HEARINGS EXAMINER OR THE DEPARTMENT. ~~This~~ AN examina-
6 tion CONDUCTED UNDER THIS SUBSECTION shall be at the expense of
7 the department.

8 (2) For purposes of this section, an individual licensed OR
9 REGISTERED under this part who accepts the privilege of practic-
10 ing in this state, by so practicing or by receiving a license or
11 renewal to practice OR BY RECEIVING REGISTRATION, AND AN INDIVID-
12 UAL WHO APPLIES FOR LICENSURE OR REGISTRATION, consents to submit
13 to a mental or physical examination UNDER SUBSECTION (1) when
14 directed to do so in writing by ~~a~~ THE DISCIPLINARY board or
15 ~~hearings examiner conducting the hearing~~ A LICENSURE OR REGIS-
16 TRATION BOARD OR TASK FORCE PURSUANT TO SECTION 16247(2) and
17 waives all objections to the admissibility of the testimony or
18 examination reports of the examining health professional on the
19 ground that the testimony or reports constitute privileged
20 communications.

21 SEC. 16237. (1) IN HOLDING A HEARING UNDER SECTION
22 16232(3), THE DISCIPLINARY BOARD SHALL REVIEW THE RECOMMENDED
23 FINDINGS OF FACT AND CONCLUSIONS OF LAW OF THE HEARINGS
24 EXAMINER. THE DISCIPLINARY BOARD SHALL NOT CONDUCT A HEARING DE
25 NOVO UNLESS A MAJORITY OF THE DISCIPLINARY BOARD FINDS THAT A
26 PREPONDERANCE OF THE EVIDENCE DOES NOT SUPPORT THE RECOMMENDED

1 FINDINGS OF FACT AND CONCLUSIONS OF LAW OF THE HEARINGS

2 EXAMINER.

3 (2) AN INDEPENDENT SPECIAL ASSISTANT ATTORNEY GENERAL WHO IS
4 UNDER CONTRACT TO THE DEPARTMENT OF ATTORNEY GENERAL AND IS NOT A
5 MEMBER OF THE STATE CLASSIFIED CIVIL SERVICE SHALL ADVISE THE
6 DISCIPLINARY BOARD ON MATTERS OF LAW AND PROVIDE OTHER LEGAL
7 ASSISTANCE AS NECESSARY. THE SPECIAL ASSISTANT ATTORNEY GENERAL
8 ASSIGNED TO THE DISCIPLINARY BOARD SHALL NOT BE THE SAME INDIVID-
9 UAL WHO REPRESENTED THE DEPARTMENT BEFORE A HEARINGS EXAMINER
10 UNDER SECTION 16231A(4).

11 (3) IN REVIEWING THE RECOMMENDED FINDINGS OF FACT AND CON-
12 CLUSIONS OF LAW OF THE HEARINGS EXAMINER AND THE RECORD OF THE
13 HEARING, THE DISCIPLINARY BOARD MAY REQUEST OF A PARTY ADDITIONAL
14 TESTIMONY OR EVIDENCE ON A SPECIFIC ISSUE OR MAY REVISE THE REC-
15 OMMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW AS DETERMINED
16 NECESSARY BY THE DISCIPLINARY BOARD, OR BOTH.

17 (4) IF THE DISCIPLINARY BOARD FINDS THAT A PREPONDERANCE OF
18 THE EVIDENCE SUPPORTS THE RECOMMENDED FINDINGS OF FACT AND CON-
19 CLUSIONS OF LAW OF THE HEARINGS EXAMINER THAT GROUNDS EXIST FOR
20 DISCIPLINARY ACTION, THE DISCIPLINARY BOARD SHALL IMPOSE AN
21 APPROPRIATE SANCTION UNDER THIS ARTICLE OR ARTICLE 7. IF THE
22 DISCIPLINARY BOARD FINDS THAT A PREPONDERANCE OF THE EVIDENCE
23 DOES NOT SUPPORT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW OF
24 THE HEARINGS EXAMINER THAT GROUNDS EXIST FOR DISCIPLINARY ACTION,
25 THE DISCIPLINARY BOARD SHALL DISMISS THE COMPLAINT.

26 (5) THE SETTLEMENT CONFERENCE, HEARING BEFORE THE HEARINGS
27 EXAMINER, AND FINAL DISCIPLINARY BOARD ACTION SHALL BE COMPLETED

1 WITHIN 9 MONTHS AFTER THE DEPARTMENT SEEKS AUTHORIZATION TO
2 CONDUCT AN INVESTIGATION UNDER SECTION 16231(2) OR BEGINS AN
3 INVESTIGATION UNDER SECTION 16231(3). THE DISCIPLINARY BOARD MAY
4 EXTEND THE 9-MONTH DEADLINE OR ANY OTHER SPECIFIC DEADLINE UNDER
5 THIS ARTICLE PERTAINING TO DISCIPLINARY PROCEEDINGS UPON THE
6 MOTION OF A PARTY FOR GOOD CAUSE SHOWN.

7 (6) A FINAL DECISION OF THE DISCIPLINARY BOARD MAY BE
8 APPEALED TO THE COURT OF APPEALS. AN APPEAL FILED UNDER THIS
9 SUBSECTION SHALL BE BY RIGHT.

10 SEC. 16238. (1) THE INFORMATION INCLUDING, BUT NOT LIMITED
11 TO, PATIENT NAMES, OBTAINED IN AN INVESTIGATION, AN INFORMAL
12 REGULATORY REVIEW CONFERENCE, OR A SETTLEMENT CONFERENCE CON-
13 DUCTED BY THE DEPARTMENT AND THE FACT THAT THE INVESTIGATION OR
14 CONFERENCE IS BEING CONDUCTED IS CONFIDENTIAL AND SHALL NOT BE
15 DISCLOSED EXCEPT TO THE EXTENT NECESSARY FOR THE PROPER FUNCTION-
16 ING OF A HEARINGS EXAMINER, THE DISCIPLINARY BOARD, OR THE
17 DEPARTMENT AND EXCEPT AS PROVIDED IN SECTION 16231.

18 (2) AN INFORMAL REGULATORY REVIEW CONFERENCE, A SETTLEMENT
19 CONFERENCE, AND A HEARING BEFORE A HEARINGS EXAMINER OR THE DIS-
20 CIPLINARY BOARD SHALL BE CLOSED TO THE PUBLIC.

21 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE
22 RECORD OF A HEARING BEFORE A HEARINGS EXAMINER AND A HEARING
23 BEFORE THE DISCIPLINARY BOARD IS CONFIDENTIAL. IF THE DISCI-
24 PLINARY BOARD IMPOSES A SANCTION UPON AN INDIVIDUAL UNDER
25 SECTION 16226, THE RECORD, EXCEPT FOR PATIENT NAMES, IS NO LONGER
26 CONFIDENTIAL AND IS A PUBLIC RECORD.

1 SEC. 16239. EACH LICENSEE OR REGISTRANT WHO IS IN PRIVATE
2 PRACTICE SHALL MAKE AVAILABLE UPON REQUEST OF A PATIENT A
3 PAMPHLET PROVIDED BY THE DEPARTMENT OUTLINING THE PROCEDURE FOR
4 FILING AN ALLEGATION UNDER SECTION 16231 WITH THE DEPARTMENT.
5 THE DEPARTMENT SHALL PREPARE THE PAMPHLET IN CONSULTATION WITH
6 THE APPROPRIATE PROFESSIONAL ASSOCIATIONS, LICENSING AND REGIS-
7 TRATION BOARDS AND TASK FORCES, AND THE DISCIPLINARY BOARD. THE
8 DEPARTMENT SHALL PRINT THE PAMPHLET IN LANGUAGES THAT ARE APPRO-
9 PRIATE TO THE ETHNIC COMPOSITION OF THE PATIENT POPULATION WHERE
10 THE PAMPHLET WILL BE DISPLAYED.

11 Sec. 16241. (1) After administrative disciplinary action is
12 final, the department of licensing and regulation shall publish a
13 list of the names and addresses of disciplined individuals. THE
14 DEPARTMENT OF LICENSING AND REGULATION SHALL INDICATE ON THE LIST
15 THAT A FINAL ADMINISTRATIVE DISCIPLINARY ACTION IS SUBJECT TO
16 JUDICIAL APPEAL. The department of licensing and regulation shall
17 report disciplinary action to the department of public health,
18 the commissioner of insurance, the state and federal agencies
19 responsible for fiscal administration of federal health care pro-
20 grams, and the appropriate professional association.

21 (2) THE DEPARTMENT OF LICENSING AND REGULATION ANNUALLY
22 SHALL TRANSMIT TO EACH COUNTY CLERK A COMPILATION OF THE LISTS
23 REQUIRED UNDER SUBSECTION (1) FOR THE IMMEDIATELY PRECEDING 3
24 YEARS.

25 (3) ~~(2)~~ The department of public health shall report the
26 disciplinary actions to appropriate licensed health facilities
27 and agencies. The commissioner of insurance shall report the

1 disciplinary actions received from the department of licensing
2 and regulation to insurance carriers providing professional
3 liability insurance.

4 (4) ~~(3)~~ In case of a summary suspension of a license under
5 ~~the administrative procedures act of 1969~~ SECTION 16233(5), the
6 department of licensing and regulation shall report the name and
7 address of the individual whose license has been ~~surrendered~~
8 SUSPENDED to the department of public health, the commissioner of
9 insurance, the state and federal agencies responsible for fiscal
10 administration of federal health care programs, and the appropri-
11 ate professional association.

12 (5) A LICENSEE OR REGISTRANT WHOSE LICENSE OR REGISTRATION
13 IS REVOKED OR SUSPENDED UNDER THIS ARTICLE FOR MORE THAN 30 DAYS
14 SHALL NOTIFY IN WRITING EACH PATIENT OR CLIENT TO WHOM THE
15 LICENSEE OR REGISTRANT RENDERED SERVICES IN THE LICENSEE'S OR
16 REGISTRANT'S PRIVATE PRACTICE WITHIN THE YEAR IMMEDIATELY PRECED-
17 ING THE DATE OF THE FINAL ORDER IMPOSING THE REVOCATION OR
18 SUSPENSION. THE NOTICE SHALL STATE, AT A MINIMUM, THE NAME,
19 ADDRESS, AND LICENSE OR REGISTRATION NUMBER OF THE LICENSEE OR
20 REGISTRANT, THE FACT THAT HIS OR HER LICENSE OR REGISTRATION HAS
21 BEEN REVOKED OR SUSPENDED, THE EFFECTIVE DATE OF THE REVOCATION
22 OR SUSPENSION, AND THE TERM OF THE REVOCATION OR SUSPENSION. THE
23 LICENSEE OR REGISTRANT SHALL SEND THE NOTICE WITHIN 30 DAYS AFTER
24 THE DATE OF THE FINAL ORDER IMPOSING THE REVOCATION OR SUSPENSION
25 AND SHALL SIMULTANEOUSLY TRANSMIT A COPY OF THE NOTICE TO THE
26 DEPARTMENT.

1 (6) THE DEPARTMENT OF LICENSING AND REGULATION SHALL
2 ANNUALLY REPORT TO THE LEGISLATURE AND TO EACH LICENSURE OR
3 REGISTRATION BOARD OR TASK FORCE ON DISCIPLINARY ACTIONS TAKEN
4 UNDER THIS ARTICLE AND ARTICLE 7. THE REPORT SHALL CONTAIN, AT A
5 MINIMUM, ALL OF THE FOLLOWING INFORMATION:

6 (A) INVESTIGATIONS CONDUCTED, COMPLAINTS ISSUED, AND SETTLE-
7 MENTS REACHED BY THE DEPARTMENT OF LICENSING AND REGULATION, SEP-
8 ARATED OUT BY TYPE OF COMPLAINT AND HEALTH PROFESSION.

9 (B) INVESTIGATIONS AND COMPLAINTS REQUESTED BY THE DEPART-
10 MENT BUT NOT AUTHORIZED.

11 (C) ACTIONS TAKEN BY THE DISCIPLINARY BOARD, SEPARATED OUT
12 BY TYPE OF COMPLAINT, HEALTH PROFESSION, AND FINAL ORDER ISSUED.

13 (D) RECOMMENDATIONS BY LICENSING AND REGISTRATION BOARDS AND
14 TASK FORCES.

15 (7) WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF THE AMENDA-
16 TORY ACT THAT ADDED THIS SUBSECTION, THE DEPARTMENT OF LICENSING
17 AND REGULATION SHALL SUBMIT A PUBLIC REPORT TO THE LEGISLATURE ON
18 THE EFFECTIVENESS OF THE AMENDATORY ACT THAT ADDED THIS
19 SUBSECTION. THE REPORT SHALL INCLUDE A REVIEW AND EVALUATION OF
20 THE DISCIPLINARY PROCESS AND THE REPORTING REQUIREMENTS OF
21 ARTICLE 17 AND RECOMMENDED ADMINISTRATIVE OR STATUTORY CHANGES,
22 IF ANY.

23 Sec. 16243. (1) ~~A board~~ THE DEPARTMENT may request and
24 SHALL receive the following reports: ~~and shall evaluate the~~
25 ~~reports, determine whether grounds for disciplinary action exist,~~
26 ~~and apply appropriate sanctions.~~

1 (a) Information from a licensed health care facility as to
2 disciplinary action taken by it ~~which~~ THAT results in the
3 change of employment status or privileges of practice of a
4 licensee, and a summary of the information pertinent to the
5 change, ~~where~~ IF the DISCIPLINARY action is related to the
6 safety and competence of practice.

7 (b) Information from an insurer providing professional
8 liability insurance as to claims or actions for damages against a
9 licensee; settlements in any amount; final disposition not
10 resulting in payment on behalf of the insured; and a personal
11 injury claimed to have been caused by an error, omission, or neg-
12 ligence in the performance of the insured professional services.
13 AN INSURER THAT RECEIVES A REQUEST UNDER THIS SUBDIVISION SHALL
14 SUBMIT THE INFORMATION REQUESTED DIRECTLY TO THE DEPARTMENT.

15 (c) Information from a court in this state as to a felony or
16 misdemeanor conviction or a judgment against a licensee or regis-
17 trant finding the licensee or registrant negligent in an action
18 for malpractice, whether or not the judgment is appealed.

19 (D) A REPORT BY A LICENSEE OR REGISTRANT UNDER
20 SECTION 16222.

21 (E) ~~(d)~~ Reports from any other appropriate source neces-
22 sary for determination of the competency and safety of the prac-
23 tice of a licensee. Appropriate sources include, BUT ARE NOT
24 LIMITED TO, appointed public and private professional review
25 entities and public and private health insurance programs.

26 (2) Within 10 days after the entry of a judgment against a
27 licensee finding the licensee negligent in an action for

1 malpractice or the approval by a court of a settlement in an
2 action for malpractice, the clerk of the court in which the judg-
3 ment was entered or the settlement approved shall prepare and
4 immediately forward to the ~~appropriate board~~ DEPARTMENT on a
5 form prescribed by the department a report setting forth the name
6 of the licensee and the amount of damages awarded or the amount
7 of the approved settlement.

8 Sec. 16244. (1) A person, including a state or county
9 health professional organization, a committee of the organi-
10 zation, or an employee or officer of the organization furnishing
11 information to, or on behalf of, the organization, acting in good
12 faith who makes a report; assists in originating, investigating,
13 or preparing a report; or assists a LICENSURE OR REGISTRATION
14 board OR TASK FORCE, THE DISCIPLINARY BOARD, A HEARINGS EXAMINER,
15 or the department in carrying out its duties under this article
16 ~~shall be~~ IS immune from civil or criminal liability ~~which~~
17 INCLUDING, BUT NOT LIMITED TO, LIABILITY IN A CIVIL ACTION FOR
18 DAMAGES THAT might otherwise be incurred thereby and ~~shall be~~
19 IS protected under the whistleblowers' protection act, Act
20 No. 469 of the Public Acts of 1980, being sections 15.361 to
21 15.369 of the Michigan Compiled Laws. A person making or assist-
22 ing in making a report, or assisting a LICENSURE OR REGISTRATION
23 board OR TASK FORCE, THE DISCIPLINARY BOARD, A HEARINGS EXAMINER,
24 or the department, ~~shall be~~ IS presumed to have acted in good
25 faith. This immunity from civil or criminal liability extends
26 only to acts done pursuant to this article or section 21513(e).

1 (2) The physician-patient privilege ~~shall not prevail~~
 2 CREATED IN SECTION 2157 OF THE REVISED JUDICATURE ACT OF 1961,
 3 ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTION 600.2157 OF
 4 THE MICHIGAN COMPILED LAWS, DOES NOT APPLY in an investigation or
 5 proceeding by a HEARINGS EXAMINER, THE DISCIPLINARY board, or the
 6 department acting within the scope of its authorization. Unless
 7 expressly waived by the ~~patient~~ INDIVIDUAL TO WHOM THE INFORMA-
 8 TION PERTAINS, the information obtained ~~shall be~~ IS confiden-
 9 tial and shall not be disclosed except to the extent necessary
 10 for the proper functioning of a HEARINGS EXAMINER, THE
 11 DISCIPLINARY board, or the department. ~~Any other use or dissem-~~
 12 ~~ination by a person by any means, unless~~ EXCEPT AS OTHERWISE
 13 PROVIDED IN THIS SUBSECTION, A PERSON SHALL NOT USE OR DISSEMI-
 14 NATE THE INFORMATION EXCEPT pursuant to a valid court order. ~~7~~
 15 ~~is prohibited.~~

16 Sec. 16245. (1) An individual whose license is ~~limited,~~
 17 suspended ~~7~~ or revoked under this part may apply to ~~the~~ HIS
 18 OR HER LICENSURE board OR TASK FORCE for a reinstatement of a
 19 revoked or suspended license ~~or reclassification of a limited~~
 20 ~~license~~ pursuant to section 16247. ~~, 16248, or 16249.~~

21 (2) An individual whose registration is suspended or revoked
 22 under this part may apply to ~~the~~ HIS OR HER REGISTRATION board
 23 for a reinstatement of a suspended or revoked registration pursu-
 24 ant to section 16248.

25 (3) A LICENSURE BOARD OR TASK FORCE SHALL REINSTATE A
 26 license suspended for grounds stated in section 16221(i) ~~shall~~
 27 ~~be reinstated~~ upon payment of the installment.

1 (4) ~~In~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, IN
2 case of a revoked license or registration, A LICENSURE BOARD OR
3 TASK FORCE SHALL NOT ACCEPT an application ~~shall not be~~
4 ~~accepted~~ FOR REINSTATEMENT within 3 years after the EFFECTIVE
5 date of THE revocation. IN CASE OF A LICENSE OR REGISTRATION
6 THAT WAS REVOKED FOR A VIOLATION OF SECTION 16221(B)(*vi*), A VIO-
7 LATION OF SECTION 16221(C)(*iv*) CONSISTING OF A FELONY CONVICTION,
8 OR ANY OTHER FELONY CONVICTION INVOLVING A CONTROLLED SUBSTANCE,
9 A LICENSURE BOARD OR TASK FORCE SHALL NOT ACCEPT AN APPLICATION
10 FOR REINSTATEMENT WITHIN 5 YEARS AFTER THE EFFECTIVE DATE OF THE
11 REVOCATION.

12 (5) ~~An~~ A LICENSURE BOARD OR TASK FORCE SHALL PROVIDE AN
13 opportunity for a hearing ~~shall be provided~~ before final rejec-
14 tion of an application for reinstatement.

15 (6) BASED UPON THE RECOMMENDATION OF THE DISCIPLINARY BOARD
16 FOR EACH HEALTH PROFESSION, THE DEPARTMENT SHALL PROMULGATE RULES
17 TO ESTABLISH SPECIFIC CRITERIA TO BE MET BY AN APPLICANT FOR
18 REINSTATEMENT UNDER THIS ARTICLE OR ARTICLE 7. THE CRITERIA MAY
19 INCLUDE GUIDELINES FOR REQUIRING CORRECTIVE MEASURES OR REMEDIAL
20 EDUCATION AS A CONDITION OF REINSTATEMENT.

21 (7) ~~(6)~~ An individual who seeks reinstatement ~~or~~
22 ~~reclassification~~ of a license or registration pursuant to this
23 section shall pay the application processing fee as a reinstate-
24 ment ~~or reclassification~~ fee. If approved for reinstatement,
25 ~~or reclassification,~~ the individual shall pay the per year
26 license or registration fee for the applicable license or
27 registration period.

1 Sec. 16247. (1) A LICENSURE board OR TASK FORCE may
2 reinstate a license ~~or issue a limited license~~ to an individual
3 whose license has been suspended or revoked under this part if
4 ~~—~~ after a hearing ~~—~~ the LICENSURE board OR TASK FORCE is sat-
5 isfied BY CLEAR AND CONVINCING EVIDENCE that the applicant is of
6 good moral character, is able to practice the profession with
7 reasonable skill and safety to patients, HAS MET THE CRITERIA IN
8 THE RULES PROMULGATED UNDER SECTION 16245(6), and should be per-
9 mitted in the public interest to resume practice. ~~As~~ PURSUANT
10 TO THE RULES PROMULGATED UNDER SECTION 16245(6), AS a condition
11 of reinstatement, the DISCIPLINARY board, UPON THE RECOMMENDATION
12 OF A LICENSURE BOARD OR TASK FORCE, may impose a disciplinary or
13 corrective measure authorized under this part and require that
14 the licensee attend a school or program selected by the LICENSURE
15 board OR TASK FORCE to take designated courses or training to
16 become competent or proficient in those areas of practice in
17 which the LICENSURE board OR TASK FORCE finds the licensee to be
18 deficient. The LICENSURE board OR TASK FORCE may require a
19 statement on a form approved by it from the chief administrator
20 of the school or program attended or the person responsible for
21 the training certifying that the licensee has achieved the
22 required competency or proficiency.

23 (2) A LICENSURE BOARD OR TASK FORCE SHALL NOT REINSTATE A
24 license suspended or revoked for grounds stated in section
25 16221(b)(i), (iii), or (iv) ~~shall not be reinstated until the~~
26 ~~board~~ UNTIL IT finds that the licensee ~~has become~~ IS mentally
27 or physically able to practice with reasonable skill and safety

1 to patients. The LICENSURE board OR TASK FORCE may ~~conduct~~
2 REQUIRE further examination of the licensee, at the licensee's
3 expense, necessary to verify that the licensee ~~has become~~ IS
4 mentally or physically able. A licensee affected by this section
5 shall be afforded the opportunity at reasonable intervals to
6 demonstrate that he or she can resume competent practice in
7 accordance with standards of acceptable and prevailing practice.

8 Sec. 16248. A REGISTRATION board may reinstate a registra-
9 tion revoked or suspended under this part if, after a hearing,
10 ~~the board~~ IT is satisfied that the individual is of good moral
11 character, has the education and experience as required in this
12 article, HAS MET THE CRITERIA IN THE RULES PROMULGATED UNDER SEC-
13 TION 16245(6), and ~~that the individual~~ will use the title law-
14 fully and act in accordance with this article.

15 Sec. 16249. ~~A~~ THE DISCIPLINARY board may reclassify a
16 license ~~limited~~ RESTRICTED under this part to alter or remove
17 the ~~limitations~~ RESTRICTIONS if, after a hearing, ~~the board~~
18 IT is satisfied that the applicant will practice the profession
19 safely and competently within the area of practice and under con-
20 ditions stipulated by the DISCIPLINARY board, and should be per-
21 mitted in the public interest to so practice. The DISCIPLINARY
22 board may require the submission of information necessary to make
23 the determination required for reclassification. As a condition
24 of reclassification, the DISCIPLINARY board may require that the
25 licensee take an examination or attend a school or program
26 selected by the DISCIPLINARY board to take designated courses or
27 training to become competent in those areas of practice the

1 DISCIPLINARY board determines necessary for reclassification.

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

6 Sec. 16261. (1) A person who is not licensed or registered
7 under this article shall not use an insignia, title, or letter,
8 or a word, letter, or phrase singly or in combination, with or
9 without qualifying words, letters, or phrases, under a circum-
10 stance to induce the belief that the person is licensed or regis-
11 tered in this state, is lawfully entitled in this state to engage
12 in the practice of a profession regulated by this article, or is
13 otherwise in compliance with this article.

14 (2) An individual shall not announce or hold himself or her-
15 self out to the public as limiting his or her practice to, as
16 being specially qualified in, or as giving particular attention
17 to a health profession specialty field for which a LICENSURE
18 board issues a specialty certification, without first having
19 obtained a specialty certification.

20 Sec. 16291. (1) Upon a violation of this article or of a
21 rule or order of a LICENSURE OR REGISTRATION board OR TASK FORCE,
22 THE DISCIPLINARY BOARD, or the department, the circuit court for
23 the county in which the violation occurs may restrain and enjoin
24 a person from the violation. A LICENSURE OR REGISTRATION board
25 OR TASK FORCE, THE DISCIPLINARY BOARD, or THE department shall
26 seek injunctive relief through the attorney general or the
27 prosecuting attorney of the county in which the violation

1 occurs. This proceeding may be in addition to and is not in lieu
2 of a criminal prosecution or proceeding as to a license or
3 registration.

4 (2) The department, ~~or~~ a LICENSURE OR REGISTRATION board
5 OR TASK FORCE or ~~both,~~ THE DISCIPLINARY BOARD may request the
6 attorney general or prosecuting attorney to prosecute a person
7 violating this article. The attorney general or the prosecuting
8 attorney may prosecute a violation of this article.

9 Sec. 16294. Except as provided in section 16215, an indi-
10 vidual ~~—~~ who practices or holds himself or herself out as prac-
11 ticing a health profession regulated by this article ~~—~~ without
12 a license OR REGISTRATION or under a suspended, revoked, VOID, or
13 fraudulently obtained license OR REGISTRATION, or outside the
14 provisions of a limited OR RESTRICTED license OR REGISTRATION, or
15 who uses as his or her own the license OR REGISTRATION of another
16 person, is guilty of a felony.

17 Sec. 16648. (1) Information relative to the care and treat-
18 ment of a dental patient acquired as a result of providing pro-
19 fessional dental services shall be confidential and privileged.
20 Except with the written consent of the patient or the patient's
21 attorney in fact or personal representative, a dentist or a
22 person employed by the dentist shall not disclose or be required
23 to disclose that information.

24 (2) This section does not prohibit disclosure of the infor-
25 mation described in subsection (1) in the following instances:

1 (a) Disclosure as part of the defense to a claim in a court
2 or administrative agency challenging the dentist's professional
3 competence.

4 (b) Disclosure pursuant to Act No. 270 of the Public Acts of
5 1967, being sections 331.531 to 331.533 of the Michigan Compiled
6 Laws.

7 (c) Disclosure in relation to a claim for payment of fees.

8 (d) Disclosure to a third party payer of information relat-
9 ing to fees for services in the course of a good faith examina-
10 tion of the dentist's records to determine the amount and cor-
11 rectness of fees or the type and volume of services furnished
12 pursuant to provisions for payment established by a third party
13 payer, or information required for a third party payer's prede-
14 terminations, post treatment reviews, or audits. For purposes of
15 this subdivision, "third party payer" includes a nonprofit dental
16 care corporation, ~~nonprofit hospital service corporation, non-~~
17 ~~profit medical care corporation,~~ nonprofit health care corpora-
18 tion, insurer, benefit fund, health maintenance organization, and
19 a dental capitation plan.

20 (e) Disclosure, pursuant to a court order, to a police
21 agency as part of a criminal investigation.

22 (f) Disclosure as provided in section 2844a.

23 (G) DISCLOSURE MADE PURSUANT TO SECTION 16222 IF THE
24 LICENSEE REASONABLY BELIEVES IT IS NECESSARY TO DISCLOSE THE
25 INFORMATION TO COMPLY WITH SECTION 16222.

26 Sec. 17011. (1) An individual shall not engage in the
27 practice of medicine or practice as a physician's assistant

1 unless licensed or otherwise authorized by this article. An
2 individual shall not engage in teaching or research that requires
3 the practice of medicine unless the individual is licensed or
4 otherwise authorized by this article.

5 (2) Notwithstanding section 16145 or rules promulgated pur-
6 suant to that section, the board may grant a license to an indi-
7 vidual who meets the requirements of section 16186 or 17031(2)
8 after reviewing the applicant's record of practice, experience,
9 and credentials and determining that the applicant is competent
10 to practice medicine.

11 (3) FOR INDIVIDUALS APPLYING FOR LICENSURE UNDER
12 SECTION 16186, THE BOARD SHALL NOT IMPOSE REQUIREMENTS ON GRADU-
13 ATES OF MEDICAL SCHOOLS LOCATED OUTSIDE THE UNITED STATES OR THE
14 DOMINION OF CANADA THAT EXCEED THE REQUIREMENTS IMPOSED ON GRADU-
15 ATES OF MEDICAL SCHOOLS LOCATED IN THE UNITED STATES OR THE
16 DOMINION OF CANADA.

17 Sec. 17050. In addition to its other powers and duties
18 under this article, the DISCIPLINARY board may prohibit a physi-
19 cian from supervising 1 or more physician's assistants for any of
20 the grounds set forth in section 16221 or for failure to super-
21 vise a physician's assistant in accordance with this part and
22 rules promulgated under this part.

23 Sec. 17550. In addition to its other powers and duties
24 under this article, the DISCIPLINARY board may prohibit a physi-
25 cian from supervising 1 or more physician's assistants for any of
26 the grounds set forth in section 16221 or for failure to

1 supervise a physician's assistant in accordance with this part
2 and rules promulgated under this part.

3 Sec. 17747. (1) A drug control license shall contain the
4 name and address of the dispensing prescriber and each location
5 in which the storage and dispensing of drugs occur and other
6 information the board requires.

7 (2) ~~The~~ A drug control license is valid until the date on
8 which the dispensing prescriber's professional license must be
9 renewed, at which time the drug control license shall be
10 renewed. The drug control license shall be renewed automatical-
11 ly, if both of the following conditions are met:

12 (a) The dispensing prescriber indicates that he or she dis-
13 penses drugs and desires to continue to do so.

14 (b) The dispensing prescriber renews his or her professional
15 license.

16 (3) A dispensing prescriber whose drug control license is
17 renewed pursuant to subsection (2) is subject to section 16226
18 and the other requirements of this ~~act~~ ARTICLE.

19 (4) A DRUG CONTROL LICENSE IS AUTOMATICALLY VOID IF THE DIS-
20 CIPLINARY BOARD SUSPENDS OR REVOKES THE LICENSEE'S LICENSE.

21 Sec. 17763. In addition to the grounds set forth in part
22 161, the DISCIPLINARY board may fine, reprimand, or place a phar-
23 macist licensee on probation, or deny, ~~limit~~ RESTRICT, suspend,
24 or revoke the license of a pharmacist for a violation or abetting
25 in a violation of this part or rules promulgated under this part,
26 or for any of the following grounds:

1 (a) Employing the mail to sell, distribute, or deliver a
2 drug which requires a prescription when the prescription for the
3 drug is received by mail.

4 (b) Adulterating, misbranding, or substituting a drug or
5 device knowing or intending that it shall be used.

6 (c) Permitting the dispensing of prescriptions by an indi-
7 vidual who is not a pharmacist, pharmacist intern, or dispensing
8 prescriber.

9 (d) Permitting the dispensing of prescriptions by a pharma-
10 cist intern, except in the presence and under the personal charge
11 of a pharmacist.

12 (e) Selling at auction drugs in bulk or in open packages
13 unless the sale has been approved in accordance with rules of the
14 board.

15 (f) Promoting to the public in any manner a prescription
16 drug.

17 Sec. 17767. ~~(+)~~ The board may promulgate rules and make
18 determinations necessary or appropriate to the licensing of phar-
19 macists, drugs, dispensers, manufacturers, and wholesalers under
20 this part.

21 ~~(2) The board may conduct investigations and inspect places~~
22 ~~licensed by this part to insure compliance with this part and~~
23 ~~rules promulgated pursuant to this part.~~

24 Sec. 17768. (1) In a manner consistent with part 161, the
25 DISCIPLINARY board may fine, reprimand, or place on probation, a
26 person licensed under this part, or deny, ~~limit~~ RESTRICT,
27 suspend, or revoke a person's license OR ORDER RESTITUTION OR

1 COMMUNITY SERVICE for a violation of this part or rules
2 promulgated under this part.

3 (2) In addition to the grounds set forth in subsection (1),
4 and in a manner consistent with part 161, the DISCIPLINARY board
5 may fine, reprimand, or place on probation a person licensed
6 under this part, or deny, ~~limit~~ RESTRICT, suspend, or revoke a
7 license issued under this part OR ORDER RESTITUTION OR COMMUNITY
8 SERVICE if the DISCIPLINARY board finds that any of the following
9 categories apply to an applicant or a partner, officer, or member
10 of the board of directors of a pharmacy, manufacturer, or whole-
11 sale distributor licensed under this part or a stockholder of a
12 pharmacy, manufacturer, or wholesale distributor which is a pri-
13 vately held corporation licensed under this part:

14 (a) The applicant or other person described in this subsec-
15 tion lacks good moral character.

16 (b) The applicant or other person described in this subsec-
17 tion has been convicted of a misdemeanor or a felony under a
18 state or federal law relating to a controlled substance or the
19 practice of pharmacy.

20 (c) The applicant or other person described in this subsec-
21 tion has furnished false or fraudulent material information or
22 has knowingly omitted material information in an application
23 filed under this part.

24 (d) The applicant or other person described in this subsec-
25 tion has previously maintained a financial interest in a pharma-
26 cy, manufacturer, or wholesale distributor which has been denied
27 a license or federal registration, has had its license or federal

1 registration limited, suspended, or revoked, or been subject to
2 any other criminal, civil, or administrative penalty.

3 (e) The applicant or other person described in this subsec-
4 tion is not in compliance with article 7 or the rules promulgated
5 under article 7.

6 (3) Except for a conviction for a misdemeanor under section
7 7404 (2)(d) or a local ordinance that is substantially similar to
8 section 7404 (2)(d), subsection (2)(b) applies only to a convic-
9 tion for a misdemeanor which is directly related to the manufac-
10 ture, delivery, possession, possession with intent to manufacture
11 or deliver, use, distribution, prescription, or dispensing of a
12 controlled substance. Subsection (2)(b) does not apply to a con-
13 viction for a misdemeanor based upon an unintentional error or
14 omission involving a clerical or record-keeping function.

15 Sec. 18117. For the purposes of this part, the confidential
16 relations and communications between a licensed professional
17 counselor or a limited licensed counselor and a client of the
18 licensed professional counselor or a limited licensed counselor
19 are privileged communications, and nothing in this part shall
20 require any privileged communication to be disclosed, except as
21 otherwise provided by law. Confidential information may be dis-
22 closed only upon consent of the client OR PURSUANT TO
23 SECTION 16222 IF THE LICENSEE REASONABLY BELIEVES IT IS NECESSARY
24 TO DISCLOSE THE INFORMATION TO COMPLY WITH SECTION 16222.

25 Sec. 18237. A psychologist licensed or allowed to use the
26 title under this part or AN individual under his or her
27 supervision shall not be compelled to disclose confidential

1 information acquired from an individual consulting the
2 psychologist in his or her professional capacity and which infor-
3 mation is necessary to enable the psychologist to render
4 services. Information may be disclosed with the consent of the
5 individual consulting, or if the individual consulting is a
6 minor, with the consent of the minor's guardian, OR PURSUANT TO
7 SECTION 16222 IF THE PSYCHOLOGIST REASONABLY BELIEVES IT IS NEC-
8 ESSARY TO DISCLOSE THE INFORMATION TO COMPLY WITH SECTION 16222.
9 In a contest on the admission of a deceased individual's will to
10 probate, an heir at law of the decedent, whether a proponent or
11 contestant of the will, and the personal representative of the
12 decedent may waive the privilege created by this section.

13 Sec. 18835. In addition to the grounds set forth in part
14 161, the DISCIPLINARY board may fine, reprimand, or place a
15 licensee on probation, or deny, ~~limit~~ RESTRICT, suspend, or
16 revoke the license of a veterinarian for fraudulent use or misuse
17 of a health certificate, inspection certificate, vaccination cer-
18 tificate, test chart, meat inspection stamp, or other blank form
19 used in the practice of veterinary medicine that might lead to
20 the dissemination of disease, unlawful transportation of diseased
21 animals, or the sale of inedible products of animal origin for
22 human consumption.

23 Sec. 20175. (1) A health facility or agency shall keep and
24 maintain a record for each patient including a full and complete
25 record of tests and examinations performed, observations made,
26 treatments provided, and in the case of a hospital, the purpose
27 of hospitalization. In addition to the sanctions set forth in

1 section 20165, a hospital ~~which~~ THAT fails to comply with this
2 subsection ~~shall be~~ IS subject to a civil fine of \$10,000.00.

3 (2) A hospital shall take precautions to assure that the
4 records required by subsection (1) are not wrongfully altered or
5 destroyed. A hospital ~~which~~ THAT fails to comply with this
6 subsection ~~shall be~~ IS subject to a civil fine of \$10,000.00.

7 (3) Unless otherwise provided by law, the licensing and cer-
8 tification records required by this article are public records.

9 (4) Departmental officers and employees shall respect the
10 confidentiality of patient clinical records and shall not divulge
11 or disclose the contents of records in a manner ~~which~~ THAT
12 identifies an individual except ~~on~~ PURSUANT TO court order.

13 (5) A health facility or agency ~~with a medical staff~~ THAT
14 EMPLOYS, CONTRACTS WITH, OR GRANTS PRIVILEGES TO A HEALTH PROFES-
15 SIONAL LICENSED OR REGISTERED UNDER ARTICLE 15 shall report to
16 the ~~appropriate licensing board and to the~~ department OF
17 LICENSING AND REGULATION not more than ~~30~~ 15 days after any
18 disciplinary action has been taken against ~~a member of the medi-~~
19 ~~cal staff, and the relevant circumstances,~~ THE HEALTH
20 PROFESSIONAL for any of the grounds set forth in section 16221
21 PERTAINING TO SAFETY AND COMPETENCE TO PRACTICE. THE REPORT
22 SHALL INCLUDE THE NAME OF THE LICENSEE OR REGISTRANT, A DESCRIP-
23 TION OF THE DISCIPLINARY ACTION TAKEN, THE SPECIFIC GROUNDS FOR
24 THE DISCIPLINARY ACTION, AND THE DATE OF THE INCIDENT. A HEALTH
25 FACILITY OR AGENCY THAT FAILS TO COMPLY WITH THIS SUBSECTION IS
26 SUBJECT TO AN ADMINISTRATIVE FINE OF \$5,000.00 AND TO A SUBPOENA
27 ISSUED UNDER SECTION 16235.

1 (6) UPON REQUEST BY ANOTHER HEALTH FACILITY OR AGENCY
2 SEEKING A REFERENCE FOR PURPOSES OF CHANGING OR GRANTING STAFF
3 PRIVILEGES, CREDENTIALS, OR EMPLOYMENT, A HEALTH FACILITY OR
4 AGENCY THAT EMPLOYS, CONTRACTS WITH, OR GRANTS PRIVILEGES TO
5 HEALTH PROFESSIONALS LICENSED OR REGISTERED UNDER ARTICLE 15
6 SHALL NOTIFY THE REQUESTING HEALTH FACILITY OR AGENCY OF ANY DIS-
7 CIPLINARY ACTION THAT IT HAS TAKEN AGAINST A HEALTH PROFESSIONAL
8 LICENSED OR REGISTERED UNDER ARTICLE 15 AND EMPLOYED BY, UNDER
9 CONTRACT TO, OR GRANTED PRIVILEGES BY THE HEALTH FACILITY OR
10 AGENCY, FOR ANY OF THE GROUNDS SET FORTH IN SECTION 16221 PER-
11 TAINING TO SAFETY AND COMPETENCY TO PRACTICE.

12 (7) UPON REQUEST BY THE DISCIPLINARY BOARD OR THE DEPARTMENT
13 OF LICENSING AND REGULATION, A HEALTH FACILITY OR AGENCY THAT
14 EMPLOYS, CONTRACTS WITH, OR GRANTS PRIVILEGES TO HEALTH PROFES-
15 SIONALS LICENSED OR REGISTERED UNDER ARTICLE 15 THAT HAS TAKEN
16 DISCIPLINARY ACTION AGAINST A HEALTH PROFESSIONAL LICENSED OR
17 REGISTERED UNDER ARTICLE 15 WHO IS EMPLOYED BY, UNDER CONTRACT
18 TO, OR GRANTED PRIVILEGES BY THE HEALTH FACILITY OR AGENCY FOR
19 ANY OF THE GROUNDS SET FORTH IN SECTION 16221 PERTAINING TO
20 SAFETY AND COMPETENCY TO PRACTICE SHALL PROVIDE THE DISCIPLINARY
21 BOARD OR THE DEPARTMENT OF LICENSING AND REGULATION INFORMATION
22 PERTAINING TO THE DISCIPLINARY ACTION PURSUANT TO SUBSECTION (5).

23 (8) ~~(6)~~ The records, data, and knowledge collected for or
24 by individuals or committees assigned a professional review func-
25 tion in a health facility or agency are confidential, shall be
26 used only for the purposes provided in this article, are not
27 public records, and are not subject to court subpoena.

1 SEC. 20176A. (1) A HEALTH FACILITY OR AGENCY SHALL NOT
2 DISCHARGE OR DISCIPLINE, THREATEN TO DISCHARGE OR DISCIPLINE, OR
3 OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE REGARDING THE
4 EMPLOYEE'S COMPENSATION, TERMS, CONDITIONS, LOCATION, OR PRIVI-
5 LEGES OF EMPLOYMENT BECAUSE THE EMPLOYEE OR AN INDIVIDUAL ACTING
6 ON BEHALF OF THE EMPLOYEE DOES EITHER OR BOTH OF THE FOLLOWING:

7 (A) IN GOOD FAITH REPORTS OR INTENDS TO REPORT, VERBALLY OR
8 IN WRITING, THE MALPRACTICE OF A HEALTH PROFESSIONAL OR A VIOLA-
9 TION OF ARTICLE 7 OR ARTICLE 15 OR A RULE PROMULGATED UNDER
10 ARTICLE 7 OR ARTICLE 15.

11 (B) ACTS AS AN EXPERT WITNESS IN A CIVIL ACTION INVOLVING
12 MEDICAL MALPRACTICE.

13 (2) IN ADDITION TO THE SANCTIONS SET FORTH IN SECTION 20165,
14 A HEALTH FACILITY OR AGENCY THAT VIOLATES SUBSECTION (1) IS
15 SUBJECT TO AN ADMINISTRATIVE FINE OF NOT MORE THAN \$10,000.00 FOR
16 EACH VIOLATION.

17 SEC. 20194. A HEALTH FACILITY OR AGENCY, EXCEPT A HEALTH
18 FACILITY OR AGENCY LICENSED UNDER PART 209, AND INCLUDING A
19 HEALTH FACILITY THAT IS NOT LICENSED UNDER THIS ARTICLE BUT HOLDS
20 ITSELF OUT AS PROVIDING MEDICAL SERVICES SHALL CONSPICUOUSLY DIS-
21 PLAY IN THE PATIENT WAITING AREAS OR OTHER COMMON AREAS OF THE
22 HEALTH FACILITY OR AGENCY COPIES OF A PAMPHLET PROVIDED BY THE
23 DEPARTMENT OF PUBLIC HEALTH OUTLINING THE PROCEDURE FOR FILING A
24 COMPLAINT AGAINST A HEALTH FACILITY OR AGENCY WITH THE DEPARTMENT
25 OF PUBLIC HEALTH AND THE PROCEDURE FOR FILING A COMPLAINT AGAINST
26 A LICENSEE EMPLOYED BY, UNDER CONTRACT TO, OR GRANTED PRIVILEGES
27 BY THE HEALTH FACILITY OR AGENCY WITH THE DEPARTMENT OF LICENSING

1 AND REGULATION. THE PAMPHLET SHALL BE PREPARED BY THE DEPARTMENT
2 OF PUBLIC HEALTH IN CONSULTATION WITH THE DEPARTMENT OF LICENSING
3 AND REGULATION AND APPROPRIATE PROFESSIONAL ASSOCIATIONS. THE
4 DEPARTMENT OF PUBLIC HEALTH SHALL PRINT THE PAMPHLETS IN LAN-
5 GUAGES THAT ARE APPROPRIATE TO THE ETHNIC COMPOSITION OF THE
6 PATIENT POPULATION WHERE THE PAMPHLET WILL BE DISPLAYED.

7 Sec. 21513. The owner, operator, and governing body of a
8 hospital licensed under this article:

9 (a) Are responsible for all phases of the operation of the
10 hospital, selection of the medical staff, and quality of care
11 rendered in the hospital.

12 (b) Shall cooperate with the department in the enforcement
13 of this part, and require that the physicians, dentists, and
14 other personnel working in the hospital and for whom a license or
15 registration is required be currently licensed or registered.

16 (c) Shall assure that physicians and dentists admitted to
17 practice in the hospital are granted hospital privileges consis-
18 tent with their individual training, experience, and other
19 qualifications.

20 (d) Shall assure that physicians and dentists admitted to
21 practice in the hospital are organized into a medical staff to
22 enable an effective review of the professional practices in the
23 hospital for the purpose of reducing morbidity and mortality and
24 improving the care provided in the hospital for patients. This
25 review shall include the quality and necessity of the care pro-
26 vided and the preventability of complications and deaths
27 occurring in the hospital.

1 (e) Shall notify the ~~appropriate board~~ DEPARTMENT OF
2 LICENSING AND REGULATION as to disciplinary action taken by the
3 hospital for any of the grounds set forth in section 16221
4 ~~which~~ THAT results in a change of employment status or privi-
5 leges of practice of a ~~physician or dentist~~ HEALTH PROFESSIONAL
6 LICENSED OR REGISTERED UNDER ARTICLE 15 WHO IS EMPLOYED BY OR
7 UNDER CONTRACT TO THE HOSPITAL OR admitted to practice in the
8 hospital, including ~~an offer by the hospital to permit the phy-~~
9 ~~sician or dentist to resign in lieu~~ A CASE IN WHICH A HEALTH
10 PROFESSIONAL RESIGNS OR TERMINATES A CONTRACT OR WHOSE CONTRACT
11 IS NOT RENEWED INSTEAD of the hospital taking disciplinary action
12 against the ~~physician or dentist~~ HEALTH PROFESSIONAL. The
13 notice shall contain a summary of the information pertinent to
14 the change and shall be transmitted in writing to the
15 ~~appropriate board~~ DEPARTMENT OF LICENSING AND REGULATION within
16 ~~30~~ 15 days after the ~~change~~ DISCIPLINARY ACTION occurs. ~~As~~
17 ~~used in this subdivision, "board" means a licensing board created~~
18 ~~pursuant to article 15.~~

19 (f) After December 31, 1989, shall not discriminate because
20 of race, religion, color, national origin, age, or sex in the
21 operation of the hospital including employment, patient admission
22 and care, room assignment, and professional or nonprofessional
23 selection and training programs, and shall not discriminate in
24 the selection and appointment of individuals to the physician
25 staff of the hospital or its training programs on the basis of
26 licensure or registration or professional education as doctors of
27 medicine, osteopathic medicine and surgery, or podiatry.

1 (g) Shall assure that the hospital adheres to medical
2 control authority protocols according to section 20918.

3 Section 2. Sections 17086 and 17088 of Act No. 368 of the
4 Public Acts of 1978, being sections 333.17086 and 333.17088 of
5 the Michigan Compiled Laws, are repealed.

6 Section 3. This amendatory act shall not take effect unless
7 all of the following bills of the 86th Legislature are enacted
8 into law:

9 (a) Senate Bill No. _____ or House Bill No. 4288 (request
10 no. 00780'91).

11 (b) Senate Bill No. _____ or House Bill No. 4289 (request
12 no. 00781'91).