

# HOUSE BILL No. 4287

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

A bill to amend sections 16103, 16105, 16106, 16109, 16135, 16137, 16138, 16139, 16141, 16143, and 16244 of Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code," section 16103 as amended by Act No. 247 of the Public Acts of 1990, section 16135 as amended by Act No. 473 of the Public Acts of 1988, and sections 16138, 16139, 16143, and 16244 as amended by Act No. 174 of the Public Acts of 1986, being sections 333.16103, 333.16105, 333.16106, 333.16109, 333.16135, 333.16137, 333.16138, 333.16139, 333.16141, 333.16143, and 333.16244 of the Michigan Compiled Laws; and to add sections 16165, 16166, 16167, 16168, 16169, 16170, 16170a, and 16223.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Section 1. Sections 16103, 16105, 16106, 16109, 16135,  
2 16137, 16138, 16139, 16141, 16143, and 16244 of Act No. 368 of  
3 the Public Acts of 1978, section 16103 as amended by Act No. 247  
4 of the Public Acts of 1990, section 16135 as amended by Act  
5 No. 473 of the Public Acts of 1988, and sections 16138, 16139,  
6 16143, and 16244 as amended by Act No. 174 of the Public Acts of  
7 1986, being sections 333.16103, 333.16105, 333.16106, 333.16109,  
8 333.16135, 333.16137, 333.16138, 333.16139, 333.16141, 333.16143,  
9 and 333.16244 of the Michigan Compiled Laws, are amended and  
10 sections 16165, 16166, 16167, 16168, 16169, 16170, 16170a, and  
11 16223 are added to read as follows:

12       Sec. 16103. (1) "Board" as used in this part means each  
13 board created in this article and as used in any other part cov-  
14 ering a specific health profession means the board created in  
15 that part.

16       (2) "Certificate of licensure" means a document issued as  
17 evidence of authorization to practice and use a designated  
18 title.

19       (3) "Certificate of registration" means a document issued as  
20 evidence of authorization to use a designated title.

21       (4) "COMMITTEE" MEANS THE HEALTH PROFESSIONAL RECOVERY COM-  
22 MITTEE CREATED IN SECTION 16165.

23       (5) ~~(4)~~ "Council" means the health occupations council  
24 created in section 16151.

25       Sec. 16105. (1) "Health occupation" means a health related  
26 vocation, calling, occupation, or employment performed by

1 ~~individuals~~ AN INDIVIDUAL whether or not THE INDIVIDUAL IS  
2 licensed or registered under this article.

3 (2) "HEALTH PROFESSIONAL RECOVERY PROGRAM" OR "PROGRAM"  
4 MEANS A NONDISCIPLINARY, TREATMENT-ORIENTED PROGRAM FOR IMPAIRED  
5 HEALTH PROFESSIONALS.

6 (3) ~~(2)~~ "Health profession" means a vocation, calling,  
7 occupation, or employment performed by ~~individuals~~ AN  
8 INDIVIDUAL acting pursuant to a license or registration issued  
9 under this article.

10 (4) ~~(3)~~ "Health profession specialty field" means an area  
11 of practice established under this article ~~which~~ THAT is within  
12 the scope of activities, functions, and duties of a licensed  
13 health profession and ~~which~~ THAT requires advanced education  
14 and training beyond that required for initial licensure.

15 (5) ~~(4)~~ "Health profession subfield" means an area of  
16 practice established under this article ~~which~~ THAT is within  
17 the scope of the activities, functions, and duties of a licensed  
18 health profession, and requires less comprehensive knowledge and  
19 skill than is required to practice the full scope of the health  
20 profession.

21 Sec. 16106. (1) "IMPAIRED" OR "IMPAIRMENT" MEANS THE  
22 INABILITY OR IMMEDIATELY IMPENDING INABILITY OF A HEALTH PROFES-  
23 SIONAL TO PRACTICE HIS OR HER HEALTH PROFESSION IN A MANNER THAT  
24 CONFORMS TO THE MINIMUM STANDARDS OF ACCEPTABLE AND PREVAILING  
25 PRACTICE FOR THAT HEALTH PROFESSION DUE TO THE HEALTH  
26 PROFESSIONAL'S SUBSTANCE ABUSE, CHEMICAL DEPENDENCY, OR MENTAL  
27 ILLNESS OR THE HEALTH PROFESSIONAL'S USE OF DRUGS OR ALCOHOL THAT

1 DOES NOT CONSTITUTE SUBSTANCE ABUSE OR CHEMICAL DEPENDENCY. AS  
2 USED IN THIS SUBSECTION:

3 (A) "CHEMICAL DEPENDENCY" MEANS A GROUP OF COGNITIVE, BEHAV-  
4 IORAL, AND PHYSIOLOGICAL SYMPTOMS THAT INDICATE THAT AN INDIVID-  
5 UAL HAS A SUBSTANTIAL LACK OF OR NO CONTROL OVER THE INDIVIDUAL'S  
6 USE OF 1 OR MORE PSYCHOACTIVE SUBSTANCES.

7 (B) "MENTAL ILLNESS" MEANS THAT TERM AS DEFINED IN SECTION  
8 400A OF THE MENTAL HEALTH CODE, ACT NO. 258 OF THE PUBLIC ACTS OF  
9 1974, BEING SECTION 330.1400A OF THE MICHIGAN COMPILED LAWS.

10 (C) "SUBSTANCE ABUSE" MEANS THAT TERM AS DEFINED IN SECTION  
11 6107.

12 (2) ~~-(1)-~~ "Incompetence" means a departure from, or failure  
13 to conform to, minimal standards of acceptable and prevailing  
14 practice for ~~the~~ A health profession, whether or not actual  
15 injury to an individual occurs.

16 (3) ~~-(2)-~~ "License" means an authorization issued under this  
17 article to practice where practice would otherwise be unlawful.  
18 It includes an authorization to use a designated title which use  
19 would otherwise be prohibited under this article and may be used  
20 to refer to a health profession subfield license, limited  
21 license, or a temporary license.

22 (4) ~~-(3)-~~ "Licensee", as used in a part that regulates a  
23 specific health profession, means ~~a person~~ AN INDIVIDUAL to  
24 whom a license is issued under that part, and as used in this  
25 part means each licensee regulated by this article.

26 (5) ~~-(4)-~~ "Limitation" means an action by which a board  
27 imposes restrictions or conditions, or both, on a license.

1       (6) ~~(5)~~ "Limited license" means a license to which  
2 restrictions or conditions, or both, as to scope of practice,  
3 place of practice, supervision of practice, duration of licensed  
4 status, or type or condition of patient or client served are  
5 imposed by a board.

6       Sec. 16109. (1) "Specialty certification" means an authori-  
7 zation to use a title by a licensee who has met qualifications  
8 established by a board for registration in a health profession  
9 specialty field.

10       (2) "Supervision" means the overseeing of or participation  
11 in the work of another individual by a health professional  
12 licensed under this article in circumstances where at least all  
13 of the following conditions exist:

14       (a) The continuous availability of direct communication in  
15 person or by radio, telephone, or telecommunication between the  
16 supervised individual and a licensed health professional.

17       (b) The availability of a licensed health professional on a  
18 regularly scheduled basis to review the practice of the super-  
19 vised individual, to provide consultation to the supervised indi-  
20 vidual, to review records, and to further educate the supervised  
21 individual in the performance of the individual's functions.

22       (c) The provision by the licensed supervising health profes-  
23 sional of predetermined procedures and drug protocol.

24       (3) "Task force" means a task force created by this  
25 article.

26       (4) "Temporary license" means a license of limited duration  
27 granted to an applicant who has completed all requirements for

1 licensure except an examination or other required evaluation  
2 procedure.

3 (5) "TREATMENT" OR "TREATMENT PLAN" MEANS A PLAN OF CARE AND  
4 REHABILITATION SERVICES PROVIDED TO IMPAIRED LICENSEES, REGIS-  
5 TRANTS, AND APPLICANTS.

6 Sec. 16135. (1) Except as otherwise provided in subsection  
7 (2), a member of the council or a board OR THE COMMITTEE or A  
8 task force created by this article shall MEET ALL OF THE FOLLOW-  
9 ING REQUIREMENTS:

10 (a) Be 18 or more years of age.

11 (b) Be of good moral character.

12 (c) Be a resident of this state for not less than THE 6  
13 months immediately ~~before~~ PRECEDING appointment and remain a  
14 resident of this state throughout the term of the appointment.

15 (d) Be currently licensed or registered in this state where  
16 licensure or registration in a health profession is a requirement  
17 for membership on the council or a board or task force. The  
18 member shall have actively practiced that profession or taught in  
19 an approved educational institution ~~which~~ THAT prepares appli-  
20 cants for licensure or registration in that profession, or a com-  
21 bination of both, in any state for not less than THE 2 years  
22 immediately ~~before~~ PRECEDING appointment.

23 (2) Subject to subsection (3), for a board created on or  
24 after January 1, 1989, the governor may appoint    as the mem-  
25 bers of the board who are required to be licensed or registered  
26 under subsection (1)(d)    individuals who meet either or both  
27 of the following requirements:

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

4 (b) Have actively practiced the profession licensed or reg-  
5 istered by the board or taught in an educational institution  
6 ~~which~~ THAT prepares applicants for licensure or registration in  
7 that profession, or a combination of both, for not less than the  
8 2 years immediately preceding their appointment.

9 (3) Each individual appointed under subsection (2) shall be  
10 licensed or registered under this article in the profession  
11 licensed or registered by that board within 3 years after the  
12 effective date of the amendatory act that created the board.

13 Sec. 16137. The legislature annually shall fix the per  
14 diem compensation of the members of the council, ~~and~~ THE COM-  
15 MITTEE, THE boards, and THE task forces. Expenses of members  
16 incurred in the performance of official duties shall be reim-  
17 bursed as provided in section 1216.

18 Sec. 16138. (1) The council, ~~or~~ a board, THE COMMITTEE,  
19 or A task force shall hold a regular meeting at places and on  
20 separate dates fixed by it. Licensure boards and the physician's  
21 assistant task force shall hold a regular meeting not less than 6  
22 times a year. THE COMMITTEE SHALL MEET NOT LESS THAN QUARTERLY.  
23 Special meetings may be called by the chairperson, BY a majority  
24 of the members of the council, ~~or~~ THE COMMITTEE, a board, or A  
25 task force, or BY the department. Except as otherwise provided  
26 in the bylaws of the council, ~~or~~ THE COMMITTEE, a board, THE  
27 COMMITTEE, or A task force, a majority of the members appointed

1 and serving ~~constitutes~~ CONSTITUTE a quorum. Final action by  
2 the council, ~~or~~ THE COMMITTEE, a board, or A task force shall  
3 be taken only by affirmative vote of a majority of the members  
4 present at a meeting or for a hearing. A member shall not vote  
5 by proxy.

6 (2) The department shall make available the times and places  
7 of meetings of the council, THE COMMITTEE, and THE boards and  
8 task forces and keep minutes of their meetings and a record of  
9 their actions. The council, THE COMMITTEE, or a board or task  
10 force meeting shall be open to the public in accordance with the  
11 open meetings act, Act No. 267 of the Public Acts of 1976, being  
12 sections 15.261 to 15.275 of the Michigan Compiled Laws.

13 Sec. 16139. The council, ~~or~~ THE COMMITTEE, a board, or A  
14 task force shall elect annually a chairperson and  
15 vice-chairperson at the first meeting held after the date set  
16 forth in section 16131. The officers shall be selected from  
17 council, board, COMMITTEE, or task force members and shall hold  
18 office for 1 year or until their successors are elected and  
19 qualified. The council, ~~or~~ THE COMMITTEE, a board, or A task  
20 force may fill a vacancy in the office of chairperson or  
21 vice-chairperson for the balance of the unexpired term. The  
22 chairperson shall preside at meetings, and if absent or unable to  
23 preside, the vice-chairperson shall preside.

24 Sec. 16141. (1) The department shall furnish office serv-  
25 ices to the council, THE COMMITTEE, and THE boards and task  
26 forces; have charge of their offices, records, and ~~moneys~~ MONEY



1 collected; and perform managerial and administrative functions  
2 for them.

3 (2) The department, after consultation with the council,  
4 COMMITTEE, board, or task force, shall appoint administrative and  
5 secretarial staff, clerks, and employees necessary to allow the  
6 proper exercise of the powers and duties of the council, THE  
7 COMMITTEE, or a board or task force. Salaries and other expenses  
8 incurred by the council, THE COMMITTEE, or a board or task force  
9 and staff and expenses for studies and activities authorized  
10 under this article shall be paid out of funds appropriated by the  
11 legislature ~~therefor~~ FOR THOSE PURPOSES and SHALL be paid out  
12 of the general fund of the state.

13 (3) The department shall send ~~moneys~~ MONEY received to the  
14 department of treasury for deposit in the general fund of this  
15 state.

16 (4) The department, with the advice of the council, may  
17 promulgate rules to promote the effective and consistent adminis-  
18 tration of this article. However, rules shall not be promulgated  
19 ~~which~~ THAT constitute the licensure or examination of health  
20 professionals.

21 Sec. 16143. (1) The council, THE COMMITTEE, or a board or  
22 task force may adopt bylaws for the regulation of its internal  
23 affairs.

24 (2) The council, THE COMMITTEE, or a board or task force  
25 shall report its activities annually to the department. The  
26 report shall include statistical data on applicants for  
27 examination, licensure, and registration; allegations and

1 disciplinary actions against licensees; and other matters  
2 relating to the licensure, registration, and regulatory activity  
3 of the boards as prescribed by the department.

4 (3) The council, THE COMMITTEE, or a board or task force may  
5 perform acts and make determinations necessary and proper to  
6 carry out its functions and the department may contract with  
7 other state agencies, private agencies, organizations, and con-  
8 sultants to assist the council, COMMITTEE, board, or task force  
9 to perform the acts or to aid in carrying out functions of the  
10 council, COMMITTEE, board, or task force.

11 SEC. 16165. (1) THE HEALTH PROFESSIONAL RECOVERY COMMITTEE  
12 IS CREATED IN THE DEPARTMENT AND SHALL CONSIST OF THE FOLLOWING  
13 VOTING MEMBERS, APPOINTED AS FOLLOWS:

14 (A) SUBJECT TO SUBSECTION (4), EACH BOARD CREATED UNDER THIS  
15 ARTICLE, INCLUDING THE PHYSICIAN'S ASSISTANTS TASK FORCE, IN CON-  
16 SULTATION WITH THE APPROPRIATE PROFESSIONAL ASSOCIATIONS, SHALL  
17 APPOINT 1 HEALTH PROFESSIONAL.

18 (B) THE DIRECTOR SHALL APPOINT 1 PUBLIC MEMBER.

19 (C) THE DIRECTOR SHALL APPOINT 1 PUBLIC MEMBER WHO HAS SPE-  
20 CIALIZED TRAINING OR EXPERIENCE, OR BOTH, IN ADDICTIVE BEHAVIOR.

21 (2) THE DIRECTOR OR HIS OR HER REPRESENTATIVE SHALL SERVE AS  
22 AN EX OFFICIO MEMBER OF THE COMMITTEE WITHOUT VOTE.

23 (3) THE DIRECTOR AND THE BOARDS SHALL NOT APPOINT AS A  
24 MEMBER OF THE COMMITTEE AN INDIVIDUAL WHO IS AT THE TIME OF  
25 APPOINTMENT A MEMBER OF THE COUNCIL OR A BOARD OR TASK FORCE.

1 (4) THE MEMBERS APPOINTED BY THE BOARDS UNDER  
2 SUBSECTION (1)(A) SHALL HAVE EDUCATION, TRAINING, AND CLINICAL  
3 EXPERTISE IN ADDICTIVE BEHAVIOR OR MENTAL ILLNESS, OR BOTH.

4 SEC. 16166. THE TERM OF OFFICE OF AN APPOINTED MEMBER OF  
5 THE COMMITTEE IS 2 YEARS, COMMENCING ON JANUARY 1 AND TERMINATING  
6 ON THE PRESCRIBED DATE. AN APPOINTED MEMBER SHALL NOT SERVE MORE  
7 THAN 2 TERMS AND 1 PARTIAL TERM, CONSECUTIVE OR OTHERWISE. A  
8 BOARD OR TASK FORCE OR THE DIRECTOR SHALL FILL A VACANCY FOR THE  
9 BALANCE OF THE UNEXPIRED TERM IN THE SAME MANNER AS THE ORIGINAL  
10 APPOINTMENT.

11 SEC. 16167. THE COMMITTEE SHALL DO ALL OF THE FOLLOWING:

12 (A) ESTABLISH THE GENERAL COMPONENTS OF THE HEALTH PROFES-  
13 SIONAL RECOVERY PROGRAM AND A MECHANISM FOR MONITORING HEALTH  
14 PROFESSIONALS WHO MAY BE IMPAIRED.

15 (B) SUBJECT TO SECTIONS 16169 AND 16170 AND IN CONJUNCTION  
16 WITH THE PROGRAM CONSULTANTS DESCRIBED IN SECTION 16168, DEVELOP  
17 AND IMPLEMENT CRITERIA FOR THE IDENTIFICATION, ASSESSMENT, AND  
18 TREATMENT OF HEALTH PROFESSIONALS WHO MAY BE IMPAIRED.

19 (C) IN CONJUNCTION WITH THE HEALTH PROFESSIONAL RECOVERY  
20 PROGRAM CONSULTANTS DESCRIBED IN SECTION 16168, DEVELOP AND  
21 IMPLEMENT MECHANISMS FOR THE EVALUATION OF CONTINUING CARE OR  
22 AFTERCARE PLANS FOR HEALTH PROFESSIONALS WHO MAY BE IMPAIRED.

23 (D) DEVELOP A MECHANISM AND CRITERIA FOR THE REFERRAL OF A  
24 HEALTH PROFESSIONAL WHO MAY BE IMPAIRED TO A PROFESSIONAL ASSOCI-  
25 ATION WHEN APPROPRIATE FOR THE PURPOSE OF PROVIDING ASSISTANCE TO  
26 THE HEALTH PROFESSIONAL. IN DEVELOPING CRITERIA UNDER THIS

1 SUBDIVISION, THE COMMITTEE SHALL REQUIRE THAT A REFERRAL NOT BE  
2 MADE WITHOUT THE CONSENT OF THE PROFESSIONAL.

3 (E) ANNUALLY REPORT TO EACH BOARD CREATED UNDER THIS ARTICLE  
4 ON THE STATUS OF THE HEALTH PROFESSIONAL RECOVERY PROGRAM. THE  
5 COMMITTEE SHALL INCLUDE IN THE REPORT, AT A MINIMUM, STATISTICAL  
6 INFORMATION ON THE LEVEL OF PARTICIPATION OF EACH HEALTH PROFES-  
7 SION IN THE PROGRAM. THE COMMITTEE MAY INCLUDE IN THE REPORT  
8 RECOMMENDATIONS FOR CHANGES IN THE HEALTH PROFESSIONAL RECOVERY  
9 PROGRAM AND FOR PARTICIPATION BY THE BOARDS, PROFESSIONAL ASSOCI-  
10 ATIONS, SUBSTANCE ABUSE TREATMENT AND PREVENTION PROGRAMS, AND  
11 OTHER APPROPRIATE AGENCIES.

12 SEC. 16168. (1) THE DEPARTMENT SHALL ENTER INTO A CONTRACT  
13 WITH A PRIVATE ENTITY TO ACT AS A CONSULTANT TO ASSIST THE COM-  
14 MITTEE WITH THE ADMINISTRATION OF THE HEALTH PROFESSIONAL RECOV-  
15 ERY PROGRAM INCLUDING, BUT NOT LIMITED TO, THE DUTIES DESCRIBED  
16 IN SECTION 16167(B) AND (C).

17 (2) IN THE CONTRACT BETWEEN THE DEPARTMENT AND THE PRIVATE  
18 ENTITY ENTERED INTO UNDER SUBSECTION (1), THE DEPARTMENT SHALL  
19 REQUIRE THE PRIVATE ENTITY TO REPORT IMMEDIATELY TO THE DEPART-  
20 MENT ANY CIRCUMSTANCES KNOWN TO THE PRIVATE ENTITY THAT INDICATE  
21 THAT AN IMPAIRED HEALTH PROFESSIONAL MAY BE A THREAT TO THE  
22 PUBLIC HEALTH, SAFETY, OR WELFARE.

23 SEC. 16169. (1) IF AN INDIVIDUAL EMPLOYED BY OR UNDER CON-  
24 TRACT TO THE DEPARTMENT HAS REASONABLE CAUSE TO BELIEVE THAT A  
25 HEALTH PROFESSIONAL MAY BE IMPAIRED, THE INDIVIDUAL SHALL TRANS-  
26 MIT THE INFORMATION TO THE COMMITTEE EITHER ORALLY OR IN  
27 WRITING. UPON RECEIPT OF THE INFORMATION, THE COMMITTEE SHALL

1 REQUEST THE PROGRAM CONSULTANT DESCRIBED IN SECTION 16168 TO  
2 DETERMINE WHETHER OR NOT THE HEALTH PROFESSIONAL MAY BE  
3 IMPAIRED.

4 (2) IF INFORMATION RECEIVED BY THE DEPARTMENT UNDER  
5 SECTION 16168(2) INDICATES THAT THE HEALTH PROFESSIONAL INVOLVED  
6 MAY BE A THREAT TO THE PUBLIC HEALTH, SAFETY, OR WELFARE AND HAS  
7 VIOLATED THIS ARTICLE OR THE RULES PROMULGATED UNDER THIS ARTI-  
8 CLE, THE DEPARTMENT MAY PROCEED UNDER SECTIONS 16211 AND 16231.

9 SEC. 16170. (1) IF THE PROGRAM CONSULTANT DESCRIBED IN  
10 SECTION 16168 DETERMINES UNDER SECTION 16169(1) THAT A HEALTH  
11 PROFESSIONAL MAY BE IMPAIRED, THE COMMITTEE MAY ACCEPT THE HEALTH  
12 PROFESSIONAL INTO THE HEALTH PROFESSIONAL RECOVERY PROGRAM IF  
13 BOTH OF THE FOLLOWING REQUIREMENTS ARE MET:

14 (A) THE HEALTH PROFESSIONAL ACKNOWLEDGES HIS OR HER  
15 IMPAIRMENT.

16 (B) THE HEALTH PROFESSIONAL VOLUNTARILY DOES ALL OF THE  
17 FOLLOWING:

18 (i) WITHDRAWS FROM OR LIMITS THE SCOPE OF HIS OR HER  
19 PRACTICE. TO COMPLY WITH THIS SUBPARAGRAPH, A HEALTH PROFES-  
20 SIONAL MAY REQUEST THE LIMITATION OF HIS OR HER LICENSE UNDER  
21 SECTION 16182.

22 (ii) AGREES TO PARTICIPATE IN A TREATMENT PLAN THAT MEETS  
23 THE CRITERIA DEVELOPED UNDER SECTION 16167.

24 (2) IF A HEALTH PROFESSIONAL DOES NOT SATISFACTORILY PARTIC-  
25 IPATE IN THE TREATMENT PLAN DESCRIBED IN SUBSECTION (1)(B)(ii),  
26 AS DETERMINED BY THE COMMITTEE, THE COMMITTEE SHALL REPORT THAT  
27 FACT TO THE DEPARTMENT.

1       (3) A HEALTH PROFESSIONAL PARTICIPATING IN A TREATMENT PLAN  
2 UNDER THE HEALTH PROFESSIONAL RECOVERY PROGRAM AND AN INDIVIDUAL  
3 TREATING THE HEALTH PROFESSIONAL UNDER THE TREATMENT PLAN SHALL  
4 NOT FALSELY REPRESENT, EITHER INDIVIDUALLY OR TOGETHER, THAT THE  
5 HEALTH PROFESSIONAL HAS SUCCESSFULLY COMPLETED THE TREATMENT  
6 PLAN. AN INDIVIDUAL WHO INTENTIONALLY VIOLATES THIS SUBSECTION  
7 IS GUILTY OF A FELONY.

8       SEC. 16170A. (1) THE IDENTITY OF AN INDIVIDUAL SUBMITTING  
9 INFORMATION TO THE COMMITTEE OR THE DEPARTMENT REGARDING THE SUS-  
10 PECTED IMPAIRMENT OF A HEALTH PROFESSIONAL IS CONFIDENTIAL.

11       (2) THE IDENTITY OF A HEALTH PROFESSIONAL WHO PARTICIPATES  
12 IN THE HEALTH PROFESSIONAL RECOVERY PROGRAM IS CONFIDENTIAL AND  
13 IS NOT SUBJECT TO DISCLOSURE UNDER DISCOVERY OR SUBPOENA OR THE  
14 FREEDOM OF INFORMATION ACT, ACT NO. 442 OF THE PUBLIC ACTS OF  
15 1976, BEING SECTIONS 15.231 TO 15.246 OF THE MICHIGAN COMPILED  
16 LAWS, UNLESS THE HEALTH PROFESSIONAL FAILS TO SATISFACTORILY PAR-  
17 TICIPATE IN A TREATMENT PLAN PRESCRIBED UNDER THE HEALTH PROFES-  
18 SIONAL RECOVERY PROGRAM OR VIOLATES SECTION 16170(3).

19       (3) IF A HEALTH PROFESSIONAL SUCCESSFULLY PARTICIPATES IN  
20 AND COMPLETES A TREATMENT PLAN PRESCRIBED UNDER THE HEALTH PRO-  
21 FESSIONAL RECOVERY PROGRAM, AS DETERMINED BY THE COMMITTEE, THE  
22 DEPARTMENT SHALL DESTROY ALL RECORDS PERTAINING TO THE IMPAIRMENT  
23 OF THE HEALTH PROFESSIONAL, INCLUDING RECORDS PERTAINING TO THE  
24 HEALTH PROFESSIONAL'S PARTICIPATION IN THE TREATMENT PLAN, UPON  
25 THE EXPIRATION OF 5 YEARS AFTER THE DATE OF THE COMMITTEE'S  
26 DETERMINATION. THIS SUBSECTION DOES NOT APPLY TO RECORDS

1 PERTAINING TO A VIOLATION OF THIS ARTICLE OR A RULE PROMULGATED  
2 UNDER THIS ARTICLE.

3 SEC. 16223. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SEC-  
4 TION, A LICENSEE OR REGISTRANT WHO HAS REASONABLE CAUSE TO  
5 BELIEVE THAT A LICENSEE, REGISTRANT, OR APPLICANT IS IMPAIRED  
6 SHALL REPORT THAT FACT TO THE DEPARTMENT. FOR PURPOSES OF THIS  
7 SUBSECTION, A REPORT FILED WITH THE COMMITTEE OR WITH THE PROGRAM  
8 CONSULTANTS DESCRIBED IN SECTION 16168 IS CONSIDERED TO BE FILED  
9 WITH THE DEPARTMENT. A LICENSEE OR REGISTRANT WHO FAILS TO  
10 REPORT UNDER THIS SUBSECTION IS NOT LIABLE IN A CIVIL ACTION FOR  
11 DAMAGES RESULTING FROM THE FAILURE TO REPORT.

12 (2) THIS SECTION DOES NOT APPLY TO A LICENSEE OR REGISTRANT  
13 WHO IS IN A BONA FIDE HEALTH PROFESSIONAL-PATIENT RELATIONSHIP  
14 WITH A LICENSEE, REGISTRANT, OR APPLICANT BELIEVED TO BE  
15 IMPAIRED.

16 (3) A LICENSEE OR REGISTRANT WHO IN GOOD FAITH COMPLIES WITH  
17 THIS SECTION IS NOT LIABLE FOR DAMAGES IN A CIVIL ACTION OR  
18 SUBJECT TO PROSECUTION IN A CRIMINAL PROCEEDING AS A RESULT OF  
19 THE COMPLIANCE.

20 Sec. 16244. (1) A person, including a state or county  
21 health professional organization, a committee of the organi-  
22 zation, or an employee or officer of the organization furnishing  
23 information to ~~—~~ or on behalf of ~~—~~ the organization ~~—, acting~~  
24 ~~in good faith~~ who IN GOOD FAITH makes a report; assists in orig-  
25 inating, investigating, or preparing a report; or assists a  
26 board, ~~or~~ the department, OR THE COMMITTEE in carrying out its  
27 duties under this article ~~shall be~~ IS immune from civil or

1 criminal liability ~~which~~ INCLUDING, BUT NOT LIMITED TO,  
2 LIABILITY IN A CIVIL ACTION FOR DAMAGES THAT might otherwise be  
3 incurred thereby and ~~shall be~~ IS protected under the  
4 whistleblowers' protection act, Act No. 469 of the Public Acts of  
5 1980, being sections 15.361 to 15.369 of the Michigan Compiled  
6 Laws. A person ~~making or assisting~~ WHO MAKES OR ASSISTS in  
7 making a report ~~, or assisting~~ OR ASSISTS a board, ~~or~~ the  
8 department, ~~shall be~~ OR THE COMMITTEE IS presumed to have acted  
9 in good faith. This immunity from civil or criminal liability  
10 extends only to acts done pursuant to this article or section  
11 21513(e).

12 (2) The physician-patient privilege ~~shall not prevail~~  
13 CREATED IN SECTION 2157 OF THE REVISED JUDICATURE ACT OF 1961,  
14 ACT NO. 236 OF THE PUBLIC ACTS OF 1961, BEING SECTION 600.2157 OF  
15 THE MICHIGAN COMPILED LAWS, DOES NOT APPLY in an investigation or  
16 proceeding by a board, ~~or~~ the department, OR THE COMMITTEE  
17 acting within the scope of its authorization. Unless expressly  
18 waived by the ~~patient~~ INDIVIDUAL TO WHOM THE INFORMATION  
19 PERTAINS, the information obtained ~~shall be~~ IS confidential and  
20 shall not be disclosed except to the extent necessary for the  
21 proper functioning of a board, ~~or~~ the department, OR THE  
22 COMMITTEE. ~~Any other use or dissemination by a person by any~~  
23 ~~means, unless~~ EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A  
24 PERSON SHALL NOT USE OR DISSEMINATE THE INFORMATION EXCEPT pursu-  
25 ant to a valid court order. ~~, is prohibited.~~



1       Section 2. This amendatory act shall not take effect unless  
2 all of the following bills of the 86th Legislature are enacted  
3 into law:

4       (a) Senate Bill No. \_\_\_\_ or House Bill No. 4279 (request  
5 no. 00772'91).

6       (b) Senate Bill No. \_\_\_\_ or House Bill No. 4288 (request  
7 no. 00780'91).

8       (c) Senate Bill No. \_\_\_\_ or House Bill No. 4289 (request  
9 no. 00781'91).