

SENATE BILL No. 428

July 11, 1991, Introduced by Senators EHLERS, EMMONS, DE GROW, DUNASKISS, CISKY, MC MANUS, WARTNER, N. SMITH and PRIDNIA and referred to the Committee on Health Policy.

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. AN APPOINTED
6 MEMBER SHALL NOT SERVE MORE THAN 2 TERMS AND 1 PARTIAL TERM, CON-
7 SECUTIVE OR OTHERWISE. A BOARD OR TASK FORCE OR THE DIRECTOR
8 SHALL FILL A VACANCY FOR THE BALANCE OF THE UNEXPIRED TERM IN THE
9 SAME MANNER AS THE ORIGINAL APPOINTMENT.

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

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

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

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

22 (D) DEVELOP A MECHANISM AND CRITERIA FOR THE REFERRAL OF A
23 HEALTH PROFESSIONAL WHO MAY BE IMPAIRED TO A PROFESSIONAL ASSOCI-
24 ATION WHEN APPROPRIATE FOR THE PURPOSE OF PROVIDING ASSISTANCE TO
25 THE HEALTH PROFESSIONAL. IN DEVELOPING CRITERIA UNDER THIS SUB-
26 DIVISION, THE COMMITTEE SHALL REQUIRE THAT A REFERRAL NOT BE MADE
27 WITHOUT THE CONSENT OF THE PROFESSIONAL.

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

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

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

21 SEC. 16169. (1) IF AN INDIVIDUAL EMPLOYED BY OR UNDER CON-
22 TRACT TO THE DEPARTMENT HAS REASONABLE CAUSE TO BELIEVE THAT A
23 HEALTH PROFESSIONAL MAY BE IMPAIRED, THE INDIVIDUAL SHALL TRANS-
24 MIT THE INFORMATION TO THE COMMITTEE EITHER ORALLY OR IN
25 WRITING. UPON RECEIPT OF THE INFORMATION, THE COMMITTEE SHALL
26 REQUEST THE PROGRAM CONSULTANT DESCRIBED IN SECTION 16168 TO

1 DETERMINE WHETHER OR NOT THE HEALTH PROFESSIONAL MAY BE
2 IMPAIRED.

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

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

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

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

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

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

23 (2) IF A HEALTH PROFESSIONAL DOES NOT SATISFACTORILY PARTIC-
24 IPATE IN THE TREATMENT PLAN DESCRIBED IN SUBSECTION (1)(B)(ii),
25 AS DETERMINED BY THE COMMITTEE, THE COMMITTEE SHALL REPORT THAT
26 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. 420.

5

6 (b) Senate Bill No. ____ or House Bill No. ____ (request
7 no. 03543'91).

8 (c) Senate Bill No. ____ or House Bill No. ____ (request
9 no. 03544'91).