Act No. 80
Public Acts of 1993
Approved by the Governor
July 8, 1993
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STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993

Introduced by Reps. Gubow, Saunders and Gire

ENROLLED HOUSE BILL No. 4076

AN ACT to amend sections 7104, 7105, 7107, 7109, 7111, 7113, 7206, 7301, 7302a, 7305, 7306, 7311, 7314, 7315, 7316, 7333, 7334, 7407, 7502, 7507, 7515, 16103, 16104, 16108, 16121, 16122, 16131, 16135, 16137, 16138, 16139, 16141, 16143, 16145, 16174, 16177, 16181, 16182, 16186, and 16192 of Act No. 368 of the Public Acts of 1978, entitled as amended "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for penalties and remedies; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," sections 7104, 7105, 7107, 7109, 7301, and 7407 as amended and sections 7111 and 7113 as added by Act No. 60 of the Public Acts of 1988, section 7302a as added by Act No. 254 of the Public Acts of 1984, sections 7306, 7314, 16138, 16139, 16143, 16145, and 16192 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 7333 as amended by Act No. 186 of the Public Acts of 1991, section 7334 as amended by Act No. 140 of the Public Acts of 1989, section 7502 as amended by Act No. 251 of the Public Acts of 1982, section 16103 as amended by Act No. 247 of the Public Acts of 1990, sections 16108 and 16174 as amended by Act No. 462 of the Public Acts of 1988, sections 16131 and 16135 as amended by Act No. 473 of the Public Acts of 1988, section 16181 as amended by Act No. 293 of the Public Acts of 1989, section 16182 as amended by Act No. 248 of the Public Acts of 1990, and section 16186 as amended by Act No. 81 of the Public Acts of 1988, being sections 333.7104, 333.7105, 333.7107, 333.7109, 333.7111, 333.7113, 333.7206, 333.7301, 333.7302a, 333.7305, 333.7306, 333.7311, 333.7314, 333.7315, 333.7316, 333.7333, 333.7334, 333.7407, 333.7502, 333.7507, 333.7515, 333.16103, 333.16104, 333.16108, 333.16121, 333.16122, 333.16131, 333.16135, 333.16137, 333.16138, 333.16139, 333.16141, 333.16143, 333.16145, 333.16174, 333.16177, 333.16181, 333.16182, 333.16186, and 333.16192 of the Michigan Compiled Laws; and to add sections 16103a, 16105a, 16106a, 16109a, 16165, 16166, 16167, 16168, 16169, 16170, 16170a, 16315, 16317, 16319, 16321, 16323, 16325, 16327, 16329, 16331, 16333, and 16335.

The People of the State of Michigan enact:

Section 1. Sections 7104, 7105, 7107, 7109, 7111, 7113, 7206, 7301, 7302a, 7305, 7306, 7311, 7314, 7315, 7316, 7333, 7334, 7407, 7502, 7507, 7515, 16103, 16104, 16108, 16121, 16122, 16131, 16135, 16137, 16138, 16139, 16141, 16143, 16145, 16174,

16177, 16181, 16182, 16186, and 16192 of Act No. 368 of the Public Acts of 1978, sections 7104, 7105, 7107, 7109, 7301, and 7407 as amended and sections 7111 and 7113 as added by Act No. 60 of the Public Acts of 1988, section 7302a as added by Act No. 254 of the Public Acts of 1984, sections 7306, 7314, 16138, 16139, 16143, 16145, and 16192 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 7333 as amended by Act No. 186 of the Public Acts of 1991, section 7334 as amended by Act No. 140 of the Public Acts of 1989, section 7502 as amended by Act No. 251 of the Public Acts of 1982, section 16103 as amended by Act No. 247 of the Public Acts of 1990, sections 16108 and 16174 as amended by Act No. 462 of the Public Acts of 1988, sections 16131 and 16135 as amended by Act No. 473 of the Public Acts of 1988, section 16181 as amended by Act No. 293 of the Public Acts of 1989, section 16182 as amended by Act No. 248 of the Public Acts of 1990, and section 16186 as amended by Act No. 81 of the Public Acts of 1988, being sections 333.7104, 333.7105, 333.7107, 333.7109, 333.7111, 333.7113, 333.7206, 333.7301, 333.7302a, 333.7305, 333.7306, 333.7311, 333.7314, 333.7315, 333.7316, 333.7333, 333.7334, 333.7407, 333.7502, 333.7507, 333.7515, 333.16103, 333.16104, 333.16108, 333.16121, 333.16122, 333.16131, 333.16135, 333.16137, 333.16138, 333.16139, 333.16141, 333.16143, 333.16145, 333.16174, 333.16177, 333.16181, 333.16182, 333.16186, and 333.16192 of the Michigan Compiled Laws, are amended and sections 16103a, 16105a, 16106a, 16109a, 16165, 16166, 16167, 16168, 16169, 16170, 16170a, 16315, 16317, 16319, 16321, 16323, 16325, 16327, 16329, 16331, 16333, and 16335 are added to read as follows:

Sec. 7104. (1) "Bureau" means the drug enforcement administration, United States department of justice, or its successor agency.

(2) "Controlled substance" means a drug, substance, or immediate precursor in schedules 1 to 5 of part 72.

(3) "Controlled substance analogue" means a substance other than a controlled substance that has a chemical structure substantially similar to that of a controlled substance in schedule 1 or 2 or that was specifically designed to produce an effect substantially similar to that of a controlled substance in schedule 1 or 2. Controlled substance analogue includes, but is not limited to, the following chemical classes: phenethylamines, n-substituted piperidines, morphinans, ecogonines, quinazolinones, substituted indoles, and arylcycloalkylamines.

(4) "Counterfeit prescription form" means a printed form which is the same or similar to a prescription form or an official prescription form, and which was manufactured, printed, duplicated, forged, or altered without the knowledge or permission of a licensed prescribing practitioner, or, in the case of official prescription forms, the department of commerce.

(5) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(6) "Deleterious drug" means a drug, other than a proprietary medicine, likely to be destructive to adult human life in quantities of 60 grains or less.

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

(2) "Disciplinary subcommittee" means the disciplinary subcommittee for the board of pharmacy appointed under section 16216.

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

(4) "Dispenser" means a practitioner who dispenses.

(5) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(6) "Distributor" means a person who distributes.

(7) "Drug" means a substance recognized as a drug in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them; a substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals; a substance other than food intended to affect the structure or any function of the body of human beings or animals; or, a substance intended for use as a component of any article specified in this subsection. It does not include a device or its components, parts, or accessories.

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

Sec. 7107. (1) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision (a), but not including the isoquinoline alkaloids of opium.

(2) "Official prescription form" means a prescription form that meets the requirements of section 7334 and is issued to practitioners by the department of commerce.

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

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

(3) "Practitioner" means:

(a) A prescriber or pharmacist, a scientific investigator as defined by rule of the administrator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state, including an individual in charge of a dog pound or animal shelter licensed or registered by the department of agriculture pursuant to Act No. 287 of the Public Acts of 1969, being sections 287.331 to 287.340 of the Michigan Compiled Laws, or a class B dealer licensed by the United States department of agriculture pursuant to the animal welfare act, Public Law 89-544, 7 U.S.C. 2131 to 2147, 2149, and 2151 to 2159 and the department of agriculture pursuant to Act No. 224 of the Public Acts of 1969, being sections 287.381 to 287.395 of the Michigan Compiled Laws, for the limited purpose of buying, possessing, and administering a commercially prepared, premixed solution of sodium pentobarbital to practice euthanasia on animals.

(b) A pharmacy, hospital, or other institution or place of professional practice licensed, registered, or otherwise permitted to distribute, prescribe, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state.

(4) "Prescription form" means a printed form which is authorized and intended for use by a prescribing practitioner to prescribe controlled substances or prescription drugs and which meets the requirements of rules promulgated by the administrator.

(5) "Production" means the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(6) "Ultimate user" means an individual who lawfully possesses a controlled substance for personal use or for the use of a member of the individual's household, or for administering to an animal owned by the individual or by a member of the individual's household.

Sec. 7111. (1) The controlled substances advisory commission is created in the department of commerce and shall consist of the following 13 voting members appointed by the governor with the advice and consent of the senate:

(a) One health care professional from each of the following boards created in article 15:

(*i*) The Michigan board of medicine.

(*ii*) The Michigan board of osteopathic medicine and surgery.

(*iii*) The Michigan board of pharmacy.

(*iv*) The Michigan board of podiatric medicine and surgery.

(*v*) The Michigan board of dentistry.

(*vi*) The Michigan board of veterinary medicine.

(*vii*) The Michigan board of nursing.

(b) One licensed health care professional from the field of psychiatry.

(c) One licensed health care professional from the field of pharmacology.

(d) Three public members, 1 of whom shall serve as chairperson.

(e) One member representing pharmaceutical manufacturers.

(2) The director of the department of state police, director of commerce, director of public health, director of social services, superintendent of public instruction, and the attorney general, or their official designees, and the drug control administrator from within the department of commerce, who shall serve as secretary to the controlled substances advisory commission, shall be ex officio members without votes, but are not members for the purpose of determining of a quorum. The department of commerce, in consultation with the Michigan board of pharmacy, shall appoint an individual to serve as the drug control administrator for purposes of this section. The individual appointed by the department to serve as drug control administrator shall be a licensed pharmacist.

(3) This section is repealed effective September 30, 1993.

Sec. 7113. (1) The controlled substances advisory commission shall monitor indicators of controlled substance abuse and diversion. If any of that data shows that Michigan exceeds the average national per capita consumption of a controlled substance, the controlled substances advisory commission shall investigate and determine if there is a legitimate reason for the excess consumption. If the controlled substances advisory commission determines that there

is not a legitimate reason for the excess consumption, the controlled substances advisory commission shall recommend to the administrator a plan of action to overcome the problem. The controlled substances advisory commission may also recommend action to the administrator if other indicators show that a special problem is developing with any controlled substance available by prescription.

(2) The controlled substances advisory commission shall publicly issue an annual report to the administrator, the governor, and the legislature on the current status of the abuse and diversion of controlled substances in this state. The report shall also identify existing efforts to overcome the abuse and diversion of controlled substances in this state and make recommendations for needed legislative, administrative, and interagency activities.

(3) The controlled substances advisory commission may include in the report required by subsection (2) recommendations for action which involve licensing, law enforcement, substance abuse treatment and prevention, education, professional associations, pharmaceutical manufacturers, and other relevant individuals and agencies.

(4) By August 1, 1990, the controlled substances advisory commission, in conjunction with the department of commerce and the Michigan pharmacists association, shall establish a standardized data base format which may be used by dispensing pharmacies to transmit the prescription-related information required under section 7334 to the department of commerce electronically or on storage media including, but not limited to, disks, tapes, and cassettes. Within 2 years after establishing electronic or storage media transmission of data required under section 7334, the controlled substance advisory commission shall evaluate the continued need for triplicate prescription forms and report to the legislature.

(5) This section is repealed effective September 30, 1993.

Sec. 7206. (1) A 7-member scientific advisory commission is created to serve as a consultative and advisory body to the administrator in all matters relating to the classification, reclassification, addition to, or deletion from, all substances presently classified as controlled substances in schedules 1 to 5, or substances not presently controlled or yet to come into being. The scientific advisory commission shall be composed of 2 physicians to be appointed by the director of public health; 2 pharmacists to be appointed by the director of commerce; the chief of the crime detection laboratory of the department of public health; the director of mental health or his or her designee; and the director of the department of state police or his or her designee. The physician and pharmacist appointments shall be for 2-year terms.

(2) The administrator shall receive the recommendations of the scientific advisory commission pursuant to administration over the controlled substances for inclusion in or exclusion from schedules 1 to 5, especially in the implementation of scheduled substances changes as provided in section 7201, except that the administrator is not bound by recommendations of the scientific advisory commission.

Sec. 7301. The administrator may promulgate rules relating to the licensure and control of the manufacture, distribution, prescribing of controlled substances included in schedule 2, and dispensing of controlled substances in this state.

Sec. 7302a. (1) A prescription drug that is in finished solid oral dosage form shall not be manufactured or distributed in this state after June 1, 1985 unless the drug is clearly and prominently marked or imprinted with an individual symbol, number, company name, words, letters, marking, national drug code, or a combination of any of the foregoing that identifies the prescription drug and the manufacturer or distributor of the drug.

(2) A person licensed by the administrator under this article to manufacture or distribute prescription drugs shall supply to the department of commerce descriptive material that will identify each current mark or imprint under subsection (1) used by the person who distributes or manufactures the prescription drug.

(3) It is the intent of the legislature that the descriptive material received by the department of commerce pursuant to subsection (2) shall be used in conjunction with similar information from other states by the United States department of health and human services, food and drug administration, or other national agency or organization, to compile a national registry of prescription drugs manufactured or distributed in the United States.

(4) The department of commerce, upon the application of a person who distributes or manufactures a prescription drug, shall exempt a particular prescription drug from the requirements of this section if the department of commerce determines that marking or imprinting the prescription drug is not feasible because of the drug's size, texture, or other unique characteristic.

(5) This section does not apply to a prescription drug that is compounded by a pharmacist licensed under article 15.

(6) The department of commerce may promulgate rules pursuant to the administrative procedures act of 1969, for purposes of implementing and enforcing this section.

(7) As used in this section, "prescription drug" means a prescription drug as defined in section 17708(4).

(8) A person who knowingly or intentionally violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than $25,000.00, or both.

Sec. 7305. The administrator shall initially permit a person who owns, or operates an establishment engaged in the manufacture, distribution, prescription, or dispensing of a controlled substance before September 30, 1978 and who is licensed by this state to apply for a license pursuant to this article. However, a person who is licensed under existing state law with the administrator or department of commerce is not required to apply for a license pursuant to this article until the expiration of the person's existing license.

Sec. 7306. (1) The administrator shall grant a license to an applicant to manufacture or distribute controlled substances included in sections 7212 to 7220, unless the administrator determines that the issuance of that license would be inconsistent with the public interest. In determining the public interest, the administrator shall consider all of the following factors:

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

(b) Compliance with applicable state and local law.

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

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

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

(f) Suspension or revocation of the applicant's federal registration to manufacture or distribute controlled substances as authorized by federal law.

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

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

(3) A practitioner shall be licensed to dispense or prescribe any controlled substances or to conduct research with controlled substances in schedules 2 to 5 if the practitioner is authorized to dispense, prescribe, or conduct research under the laws of this state. The administrator need not require separate licensure under this article for a practitioner engaging in research with nonnarcotic controlled substances in schedules 2 to 5 if the licensee is licensed under this article in another capacity. A practitioner registered under federal law to conduct research with schedule 1 substances may conduct research with schedule 1 substances in this state upon furnishing the administrator evidence of that federal registration.

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

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

Sec. 7311. (1) A license under section 7306 to manufacture, distribute, prescribe, or dispense a controlled substance may be denied, suspended, or revoked or a licensee may be fined, reprimanded, ordered to perform community service or make restitution, or placed on probation by the disciplinary subcommittee upon a finding that an applicant for licensure or a licensee is subject to any of the following:

(a) The applicant or licensee has furnished false or fraudulent material information in an application filed under this article.

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

(c) The applicant or licensee has promoted a controlled substance to the general public.

(d) The applicant or licensee is not a practitioner, manufacturer, or distributor.

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

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

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

(h) The applicant or licensee has violated or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspired to violate this article or rules of the administrator promulgated under this article.

(2) The disciplinary subcommittee may limit a license under subsection (1) to a particular controlled substance.

(3) A license under section 7306 to manufacture, distribute, prescribe, or dispense a controlled substance shall be denied or revoked by the disciplinary subcommittee if the applicant or licensee has been convicted of a felony under a state or federal law relating to a controlled substance.

(4) If the disciplinary subcommittee suspends or revokes a license or if a license is void under subsection (6), all controlled substances owned or possessed by the licensee at the time of suspension or the effective date of the revocation order may be placed under seal or seized at the discretion of the disciplinary subcommittee. The department shall not dispose of controlled substances under seal or seizure until the time for taking an appeal has elapsed or until all appeals have been concluded, unless a court, upon application therefor, orders the sale of perishable controlled substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final or after a license becomes void under subsection (6) because the licensee's license to practice is revoked under article 15 and that revocation order becomes final, the disciplinary subcommittee may order all controlled substances under seal or seizure to be forfeited to this state.

(5) The disciplinary subcommittee shall promptly notify the bureau of all orders suspending or revoking a license and all forfeitures of controlled substances.

(6) A license under section 7306 to manufacture, distribute, prescribe, or dispense a controlled substance is automatically void if the licensee's license to practice is suspended or revoked under article 15.

(7) Subject to subsection (8), if the administrator or the disciplinary subcommittee finds that an applicant or licensee has been convicted of a misdemeanor or a felony under a state or federal law relating to a controlled substance, the applicant or licensee shall not have a direct financial interest in or be employed by a person who is licensed under this article to manufacture, distribute, prescribe, or dispense a controlled substance in a capacity in which the individual has direct access to controlled substances for a period of not less than 3 years after the date of conviction. An individual who violates this subsection is subject to a civil fine of not more than $25,000.00 in a proceeding in the circuit court.

(8) Subsection (7) applies only to a conviction for a misdemeanor that is directly related to the manufacture, delivery, possession, possession with intent to manufacture or deliver, use, distribution, prescription, or dispensing of a controlled substance. Subsection (7) does not apply to a conviction for a misdemeanor based upon an unintentional error or omission involving a clerical or record-keeping function.

Sec. 7314. (1) Before the disciplinary subcommittee suspends or revokes or limits a license or denies an application or a renewal of a license, the disciplinary subcommittee shall serve on the applicant or licensee an order to show cause why the application or license should not be denied, limited, revoked, or suspended, or why the renewal should not be denied. The order to show cause shall contain a statement of the basis for the order and shall call upon the applicant or licensee to appear before the disciplinary subcommittee or a hearings examiner at a time and place not less than 30 days after the date of service of the order. A show cause order for a denial of renewal of a license shall be served not later than 30 days before expiration of the license. The proceedings described in this subsection shall be conducted without regard to any criminal prosecution or other proceeding. A proceeding to deny renewal of a license does not abate the existing license, which remains in effect pending the outcome of the administrative hearing.

(2) Pursuant to procedural guidelines adopted by the department, the department may suspend a license, without an order to show cause, simultaneously with the institution of proceedings under section 7311 or if renewal of licensure is refused, if the department finds that there is an imminent danger to the public health or safety that warrants this action. The suspension shall continue in effect until conclusion of the proceedings, including judicial review, unless sooner withdrawn by a hearings examiner or dissolved by a court of competent jurisdiction.

(3) Subsection (1) does not apply to the suspension or revocation of a license by the administrator pursuant to section 7311(6).

Sec. 7315. (1) An individual whose license is limited, suspended, or revoked under this part may apply to the board for a reinstatement of a revoked or suspended license or for removal of a limitation as to a particular controlled substance.

(2) In the case of a revoked license, an applicant shall not apply for reinstatement before the expiration of 5 years after the effective date of the revocation. The department shall return an application for reinstatement received before the expiration of the 5-year period.

(3) The department shall provide an opportunity for a hearing before final rejection of an application for reinstatement.

Sec. 7316. The administrator may reinstate a revoked or suspended license to an individual whose license has been suspended or revoked under this article or remove a limitation as to a particular controlled substance if, after a hearing, the administrator is satisfied that the applicant is of good moral character, has met the criteria in the rules promulgated under section 16245(6), and should be permitted in the public interest to have his or her license reinstated or the limitation removed. As a condition of reinstatement, the disciplinary subcommittee, upon the recommendation of the

administrator, may impose a disciplinary or corrective measure authorized under this article. In determining the public interest, the administrator shall consider the factors set forth in section 7306(1)(a) to (g).

Sec. 7333. (1) Except as otherwise provided in this section and section 17766b, a controlled substance included in schedule 2 or an androgenic anabolic steroid as defined in section 17766a shall not be dispensed without the written prescription of a practitioner licensed under section 7303 on an official prescription form.

(2) In an emergency situation, as defined by rule of the administrator, a controlled substance included in schedule 2 or an androgenic anabolic steroid may be dispensed upon oral prescription of a practitioner if, except as otherwise provided in this section and section 17766b, the prescribing practitioner promptly fills out an official prescription form and forwards the first and second copies of the official prescription form to the dispensing pharmacy within 72 hours after the oral prescription is issued, in compliance with section 7334(6). A prescription for an androgenic anabolic steroid other than methyltestosterone, testosterone, or fluoxymensterone, whether that methyltestosterone, testosterone, or fluoxymensterone is prescribed alone, or in combination with any other drug for which an official prescription form is not required or for a controlled substance included in schedule 2 shall not be refilled. A prescription for an androgenic anabolic steroid other than methyltestosterone, testosterone, or fluoxymensterone, whether that methyltestosterone, testosterone, or fluoxymensterone is prescribed alone, or in combination with any other drug for which an official prescription form is not required or for a controlled substance included in schedule 2 shall not be filled more than 3 days after the date on which the prescription was issued.

(3) The following are not required to be on an official prescription form:

(a) A controlled substance included in schedule 2 or an androgenic anabolic steroid that is ordered for and administered to a patient in a hospital licensed by the department of public health or the department of mental health.

(b) A controlled substance included in schedule 2 or an androgenic anabolic steroid that is ordered for and administered to a patient on the premises of a licensed health facility or agency other than a hospital or in the private practice office of a licensed physician, dentist, or podiatrist.

(c) A controlled substance included in schedule 2 or an androgenic anabolic steroid that is administered to an animal by a licensed veterinarian in a veterinarian's office, animal clinic, animal hospital, zoo, or on the premises of the animal's domicile, and a commercially prepared, premixed solution of sodium pentobarbital administered to an animal for the purpose of euthanasia.

(d) A prescription issued by a practitioner residing adjacent to the land border between this state and an adjoining state who is authorized under the laws of that state to practice a health profession and whose practice may extend into this state, but who does not maintain an office or designate a place to meet patients or receive calls in this state.

(e) A prescription for methyltestosterone, testosterone, or fluoxymensterone, alone, or in combination with any other drug for which an official prescription form is not required.

(4) Except if dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, a controlled substance included in schedule 3 or 4 that is a prescription drug as determined under section 503(b) of the federal food, drug, and cosmetic act, chapter 675, 52 Stat. 1040, 21 U.S.C. 353 or section 17708, shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled without specific refill instructions noted by the prescriber. The prescription shall not be filled or refilled later than 6 months after the date of the prescription or be refilled more than 5 times, unless renewed by the practitioner in accordance with rules promulgated by the administrator.

(5) A controlled substance included in schedule 5 shall not be distributed or dispensed other than for a medical purpose, or in any manner except in accordance with rules promulgated by the administrator.

(6) If a written prescription is required under this section, the written prescription shall contain the quantity of the controlled substance or androgenic anabolic steroid prescribed in both written and numerical terms. A written prescription is in compliance with this subsection if, in addition to containing the quantity of the controlled substance or androgenic anabolic steroid prescribed in written terms, it contains preprinted numbers, representative of the quantity of the controlled substance or an androgenic anabolic steroid prescribed, next to which is a box or line which may be checked by the prescriber.

(7) A prescribing practitioner shall not use a prescription form for a purpose other than prescribing. A prescribing practitioner shall not postdate an official prescription form. A prescribing practitioner shall not sign an official prescription form on a day other than the day on which the prescription is issued.

(8) Notwithstanding subsections (1) to (7), a dog pound or animal shelter licensed or registered by the department of agriculture pursuant to Act No. 287 of the Public Acts of 1969, being sections 287.331 to 287.340 of the Michigan Compiled Laws, or a class B dealer licensed by the United States department of agriculture pursuant to the animal welfare act, Public Law 89-544, 7 U.S.C. 2131 to 2147, 2149, and 2151 to 2159 and the department of agriculture pursuant to Act No. 224 of the Public Acts of 1969, being sections 287.381 to 287.395 of the Michigan Compiled Laws, may acquire a limited permit only for the purpose of buying, possessing, and administering a commercially prepared, premixed

solution of sodium pentobarbital to practice euthanasia on injured, sick, homeless, or unwanted domestic pets and other animals, if the dog pound or animal shelter or class B dealer does all of the following:

(a) Applies to the administrator for a permit in accordance with rules promulgated under this part. The application shall contain the name of the individual in charge of the day to day operations of the dog pound or animal shelter or class B dealer's facilities and the name of the individual responsible for designating employees who will be practicing euthanasia on animals pursuant to this act.

(b) Complies with the rules promulgated by the administrator for the storage, handling, and use of commercially prepared, premixed solution of sodium pentobarbital to practice euthanasia on animals. A record of use shall be maintained and shall be available for inspection.

(c) Certifies that an employee of the dog pound or animal shelter or class B dealer has received, and can document completion of, a minimum of 8 hours of training given by a licensed veterinarian in the use of sodium pentobarbital to practice euthanasia on animals pursuant to rules promulgated by the administrator in consultation with the Michigan board of veterinary medicine as these rules relate to this training, and that only an individual described in this subdivision, or an individual otherwise permitted to use a controlled substance pursuant to this article, will administer the commercially prepared, premixed solution of sodium pentobarbital according to written procedures established by the dog pound or animal shelter or class B dealer.

(9) The application described in subsection (8) shall include the names and addresses of all individuals employed by the dog pound or animal shelter or class B dealer described in subsection (8) who have been trained as described in subsection (8)(c), and the name of the veterinarian who trained them. The list of names and addresses shall be updated every 6 months.

(10) If a dog pound or animal shelter or class B dealer described in subsection (8) issued a permit pursuant to subsection (8) does not have in its employ an individual trained as described in subsection (8)(c), the dog pound or animal shelter or class B dealer described in subsection (8) shall immediately notify the administrator, and shall cease to administer any commercially prepared, premixed solution of sodium pentobarbital until the administrator is notified that 1 of the following has occurred:

(a) An individual trained as described in subsection (8)(c) has been hired by the dog pound or animal shelter or class B dealer.

(b) An employee of the dog pound or animal shelter or class B dealer has been trained as described in subsection (8)(c).

(11) A veterinarian, including a veterinarian who trains individuals as described in subsection (8)(c), is not civilly or criminally liable for the use of a commercially prepared, premixed solution of sodium pentobarbital by a dog pound or animal shelter or class B dealer described in subsection (8) unless the veterinarian is employed by or under contract with the dog pound or animal shelter or class B dealer described in subsection (8), and the terms of the veterinarian's employment or the contract require the veterinarian to be responsible for the use or administration of the commercially prepared, premixed solution of sodium pentobarbital.

(12) A person shall not knowingly use or permit the use of a commercially prepared, premixed solution of sodium pentobarbital in violation of this section.

(13) This section does not require that a veterinarian be employed by or under contract with a dog pound or animal shelter or class B dealer described in subsection (8) in order to obtain, possess, or administer a commercially prepared, premixed solution of sodium pentobarbital pursuant to this section.

Sec. 7334. (1) A prescription for a controlled substance included in schedule 2 shall be recorded on an official prescription form that meets the requirements of subsection (3) and is issued to practitioners by the department of commerce. Except as otherwise provided in subsection (2), not more than 1 prescription shall be recorded on each form. The department of commerce shall issue the official prescription forms to practitioners free of charge.

(2) A practitioner employed by or under contract to a substance abuse treatment program licensed under part 62 to treat opiate addiction with the drug methadone shall do all of the following:

(a) On the first working day of each month, complete an official prescription form for the entire program indicating the total amount of methadone administered or dispensed and the total number of patients who received the methadone during the previous month.

(b) Comply with federal law regarding the confidentiality of client information.

(c) Forward copy 1 of the official prescription form to the department of commerce by the fifteenth day of the month in which the form was completed.

(3) Each official prescription form used to prescribe a controlled substance included in schedule 2 shall be serially numbered and in triplicate, with the first copy labeled 'copy 1', the second copy labeled 'copy 2', and the third copy labeled 'copy 3'. Each form shall contain spaces for all of the following:

(a) The date the prescription is written.

(b) The date the prescription is filled.

(c) The controlled substance prescribed, the dosage, the quantity, in both written and numerical terms, and instructions for use.

(d) The name, address, and federal drug enforcement administration number of the dispensing pharmacy and the state license number and signature or initials of the pharmacist who fills the prescription.

(e) The name, address, state license number, federal drug enforcement administration number, and signature of the prescribing practitioner.

(f) The name, address, and age of the patient or owner of an animal for whom the controlled substance is prescribed.

(g) A box that, if checked, indicates that the controlled substance was dispensed by a prescribing practitioner.

(4) A prescribing practitioner shall do all of the following:

(a) Fill in on all 3 copies of the prescription form, in the space provided, all of the following:

(*i*) The date the prescription is written.

(*ii*) The controlled substance prescribed, the dosage, the quantity, in both written and numerical terms, and instructions for use.

(*iii*) The name, address, and age of the patient or owner of an animal for whom the controlled substance is prescribed.

(*iv*) If the controlled substance is prescribed for an animal, the name of the animal.

(b) Sign copies 1 and 2 of the official prescription form and, except for an oral prescription prescribed under section 7333, give them to the person authorized to receive the prescription. If the prescribing practitioner signs copy 1 of the form and in so doing produces a legible copy of the signature on copy 2, the prescribing practitioner is in compliance with this subdivision.

(c) Retain copy 3 of the official prescription form with the prescribing practitioner's records for a period of not less than 5 years from the date the prescription is written.

(5) If a prescribing practitioner dispenses a controlled substance included in schedule 2, the prescribing practitioner shall do all of the following:

(a) Fill in on all 3 copies of the official prescription form, in the space provided, all of the following:

(*i*) The date the controlled substance is dispensed.

(*ii*) The controlled substance dispensed, the dosage, the quantity, in both written and numerical terms, and instructions for use.

(*iii*) The name, address, and age of the patient or owner of an animal for whom the controlled substance is dispensed.

(*iv*) If the controlled substance is dispensed for an animal, the name of the animal.

(*v*) The box described in subsection (3)(g).

(b) Sign copies 1 and 2 of the official prescription form and forward copy 1 to the department of commerce by the fifteenth day of the month following the month in which the controlled substance was dispensed. If the prescribing practitioner signs copy 1 of the official prescription form and in so doing produces a legible copy of the signature on copy 2, the prescribing practitioner is in compliance with this subdivision.

(c) Retain copy 2 of the official prescription form as a dispensing record.

(d) Retain copy 3 of the official prescription form with the prescribing practitioner's records for a period of not less than 5 years from the date the prescription is written.

(6) For an oral prescription prescribed under section 7333(2), the prescribing practitioner shall give the dispensing pharmacy the information needed by the dispensing pharmacy to fill the prescription. The prescribing practitioner shall complete and forward the first and second copies of the official prescription form to the dispensing pharmacy within 72 hours after issuing the oral prescription. If the dispensing pharmacist does not receive the first and second copies of the official prescription form within the 72-hour period, the dispensing pharmacist may notify the department of commerce.

(7) Each dispensing pharmacist shall do all of the following:

(a) Fill in on copies 1 and 2 of the official prescription form, in the space provided, the information not required to be filled in by the prescribing practitioner or the department of commerce.

(b) Retain copy 2 with the records of the pharmacy for a period of not less than 5 years.

(c) Sign or initial copy 1 and forward it to the department of commerce by the fifteenth of the month following the month in which the prescription was written.

(d) When filling a prescription for a controlled substance included in schedule 2 for a prescribing practitioner who is exempted under section 7333(3)(d) from using official prescription forms, a pharmacist shall, by the fifteenth of the

month following the month in which the prescription was written, forward a copy of the prescription form used or a document provided by the department of commerce for each such prescription that contains all of the following information:

(*i*) The date the prescription is written.

(*ii*) The date the prescription is filled.

(*iii*) The controlled substance prescribed, the dosage, and the quantity.

(*iv*) The name, address, and drug enforcement administration number of the prescribing practitioner.

(*v*) The name, address, and age of the patient.

(*vi*) The name, address, and state license number of the dispensing pharmacist.

(8) If a prescribing practitioner has failed to fill in all of the information required under subsection (4)(a), the dispensing pharmacist may complete the information on the back of copy 1. The dispensing pharmacist shall not change or add information on the front of copy 1. If the department of commerce determines that a prescribing practitioner is failing to fill in the required information, the department of commerce shall so notify the prescribing practitioner.

(9) A practitioner in possession of official prescription forms issued under subsection (1) whose license to dispense or practice, or whose federal drug enforcement administration number, is suspended or revoked, shall, within 7 days after the date the suspension or revocation becomes effective, return to the department of commerce all official prescription forms which have not been used to issue prescriptions. An individual who violates this subsection is guilty of a misdemeanor.

(10) The director of commerce shall permit access to information submitted to the department of commerce under this section only to the following individuals:

(a) Employees and agents of the department of commerce authorized by the director of commerce.

(b) Employees of a governmental agency that is responsible for the enforcement of laws pertaining to controlled substances and is authorized by the director of commerce.

(c) A prescribing practitioner concerning an individual suspected of attempting to obtain a controlled substance by fraud, deceit, or misrepresentation, as authorized by the director of commerce.

(d) An individual with whom the department has contracted under subsection (16), as authorized by the director of commerce.

(11) Information submitted to the department of commerce under this section is confidential, but may be released to persons authorized by the director of commerce to conduct research studies or to other persons authorized by the director of commerce. However, information released under this subsection shall not identify the individuals to whom the information pertains, and shall be released for statistical purposes only.

(12) The system for retrieval of information submitted to the department of commerce pursuant to this section shall be designed in all respects so as to preclude improper access to information.

(13) Except as otherwise provided in this part, information submitted to the department of commerce under this section shall be used only for bona fide drug-related criminal investigatory or evidentiary purposes or for the investigatory or evidentiary purposes in connection with the functions of a disciplinary subcommittee or 1 or more of the licensing or registration boards created in article 15.

(14) The identity of an individual patient that is submitted to the department of commerce pursuant to this section shall be removed from the system for retrieval of the information described in this section and shall be destroyed and rendered irretrievable not later than the end of the calendar year following the year in which the information was submitted to the department of commerce. However, an individual patient identity that is necessary for use in a specific ongoing investigation conducted in accordance with this act may be retained in the system until the end of the year in which the necessity for retention of the identity ends.

(15) On or before September 30, 1993, the department of commerce, in conjunction with the controlled substances advisory commission, shall submit a public report to the legislature on the effectiveness of the triplicate prescription program. The report shall include a recommendation on whether the program has been a cost effective method of controlling the diversion of controlled substances.

(16) The department of commerce may enter into contractual agreements for the administration of this section.

(17) This section does not prohibit access to prescription information otherwise allowed by law.

(18) This section is repealed effective September 30, 1993.

Sec. 7407. (1) A person shall not knowingly or intentionally:

(a) Distribute as a licensee a controlled substance classified in schedule 1 or 2, except pursuant to an order form as required by section 7331.

(b) Use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person.

(c) Acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

(d) Furnish false or fraudulent material information in, or omit any material information from, an application, report, official prescription form, or other document required to be kept or filed under this article, or any record required to be kept by this article.

(e) Make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon a drug or container or labeling thereof so as to render the drug a counterfeit substance.

(f) Knowingly and intentionally give, permit, or obtain access to information submitted to the department of commerce under section 7334, except as otherwise authorized by this article.

(g) Possess counterfeit prescription forms, except as an agent of government while engaged in the enforcement of this part.

(2) A person shall not refuse or knowingly fail to make, keep, or furnish any record, notification, order form, statement, invoice, or other information required under this article.

(3) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 4 years, or a fine of not more than $30,000.00, or both.

Sec. 7502. (1) An inspection agent or investigatory agent of the department of commerce may do any of the following:

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

(b) Seize property pursuant to this article.

(c) Perform other law enforcement duties the administrator or the department of commerce designates.

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

Sec. 7507. (1) The department of commerce may make administrative inspections of controlled premises in accordance with this section.

(2) When authorized by an administrative inspection warrant, an officer or employee designated by the department of commerce, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.

(3) When authorized by an administrative inspection warrant, an officer or employee designated by the department of commerce may:

(a) Inspect and copy records required to be kept by this article.

(b) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers, and labeling found therein and, except as provided in subsection (5) all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this article.

(c) Inventory any stock of a controlled substance therein and obtain samples thereof.

(4) This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with law, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

(a) If the owner, operator, or agent in charge of the controlled premises consents.

(b) In situations presenting imminent danger to health or safety.

(c) In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant.

(d) In any other exceptional or emergency circumstance where time or opportunity to apply for a warrant is lacking.

(e) In any other situation in which a warrant is not constitutionally required.

(5) An inspection authorized by this section shall not extend to financial data or sales data, other than shipment data or pricing data, unless the owner, operator, or agent in charge of the controlled premises consents in writing.

(6) For purposes of this section only, "controlled premises" means:

(a) A place where a person licensed or exempted from licensure requirements under this article is required to keep records.

(b) A place including a factory, warehouse, establishment, and conveyance in which a person licensed or exempted from licensure requirements under this article is permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of a controlled substance.

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

(a) Arrange for the exchange of information among governmental officials as to the use and abuse of controlled substances.

(b) Coordinate and cooperate in training programs as to controlled substance law enforcement at local and state levels.

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

(d) Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.

(2) Results, information, and evidence received from the bureau relating to the regulatory functions of this article, including results of inspections conducted by it, may be relied and acted upon by the disciplinary subcommittee in the exercise of its regulatory functions under this article.

Sec. 16103. (1) "Board" as used in this part means each board created in this article and as used in any other part covering a specific health profession means the board created in that part.

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

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

(4) "Controlled substance" means that term as defined in section 7104.

(5) "Conviction" means a judgment entered by a court upon a plea of guilty, guilty but mentally ill, or nolo contendere or upon a jury verdict or court finding that a defendant is guilty or guilty but mentally ill.

Sec. 16103a. "Committee" means the health professional recovery committee created in section 16165.

Sec. 16104. (1) "Delegation" means an authorization granted by a licensee to a licensed or unlicensed individual to perform selected acts, tasks, or functions that fall within the scope of practice of the delegator and that are not within the scope of practice of the delegatee and that, in the absence of the authorization, would constitute illegal practice of a licensed profession.

(2) "Department" means the department of commerce.

(3) "Director" means the director of commerce or the director's designee.

(4) "Disciplinary subcommittee" means a disciplinary subcommittee appointed under section 16216.

(5) "Good moral character" means good moral character as defined and determined under Act No. 381 of the Public Acts of 1974, as amended, being sections 338.41 to 338.47 of the Michigan Compiled Laws.

Sec. 16105a. "Health professional recovery program" or "program" means a nondisciplinary, treatment-oriented program for impaired health professionals established under section 16167.

Sec. 16106a. "Impaired" or "impairment" means the inability or immediately impending inability of a health professional to practice his or her health profession in a manner that conforms to the minimum standards of acceptable and prevailing practice for that health profession due to the health professional's substance abuse, chemical dependency, or mental illness or the health professional's use of drugs or alcohol that does not constitute substance abuse or chemical dependency. As used in this section:

(a) "Chemical dependency" means a group of cognitive, behavioral, and physiological symptoms that indicate that an individual has a substantial lack of or no control over the individual's use of 1 or more psychoactive substances.

(b) "Mental illness" means that term as defined in section 400a of the mental health code, Act No. 258 of the Public Acts of 1974, being section 330.1400a of the Michigan Compiled Laws.

(c) "Substance abuse" means that term as defined in section 6107.

Sec. 16108. (1) "Reclassification" means an action by a disciplinary subcommittee by which restrictions or conditions, or both, applicable to a license are added or removed.

(2) "Registration" means an authorization only for the use of a designated title which use would otherwise be prohibited under this article. It includes specialty certification of a licensee.

(3) "Registrant" as used in any part that regulates the use of a title means an individual to whom a registration or specialty certification is issued under that part, and as used in this part means each registrant regulated by this article.

(4) "Reinstatement" means the granting of a license or certificate of registration, with or without limitations or conditions, to a person whose license or certificate of registration has been suspended or revoked.

(5) "Relicensure" means the granting of a license to a person whose license has lapsed for failure to renew the license within 60 days after the expiration date.

(6) "Reregistration" means the granting of a certificate of registration to a person whose certificate of registration has lapsed for failure to renew the certificate within 60 days after the expiration date.

Sec. 16109a. "Treatment" or "treatment plan" means a plan of care and rehabilitation services provided to impaired licensees, registrants, and applicants.

Sec. 16121. (1) The governor shall appoint by and with the advice and consent of the senate the members of the boards and task forces except ex officio members.

(2) A vacancy on a board or task force shall be filled for the balance of the unexpired term in the same manner as the original appointment. An appointment for a vacancy shall be submitted to the senate not later than 60 days after the vacancy occurs.

(3) The governor shall seek nominations from a wide range of sources including professional associations, educational institutions, consumer organizations, labor unions, health planning agencies, and other community health organizations when making appointments under this article.

(4) The governor may remove or suspend a board or task force member from office in accordance with section 10 of article 5 of the state constitution of 1963.

Sec. 16122. Except as otherwise provided in this part, the term of office of members of a board or task force is 4 years, commencing on the day after the date prescribed in section 16131 and terminating on the prescribed date. A member shall not serve more than 2 terms and 1 partial term, consecutive or otherwise, including service on a predecessor council, board, or task force. However, a member serving when this section takes effect may complete the term to which the member was appointed.

Sec. 16131. The terms of office of individual members of the council or the boards and task forces, except those appointed to fill vacancies, shall expire 4 years after appointment as follows:

Nursing	June 30
Optometry	June 30
Pharmacy	June 30
Podiatric medicine and surgery	June 30
Dentistry	June 30
Chiropractic	December 31
Counseling	June 30
Medicine	December 31
Occupational therapists	December 31
Osteopathic medicine and surgery	December 31
Physical therapy	December 31
Psychology	December 31
Sanitarians	December 31
Veterinary medicine	December 31

Sec. 16135. (1) Except as otherwise provided in subsection (2), a member of a board, the committee, or a task force created by this article shall meet all of the following requirements:

(a) Be 18 or more years of age.

(b) Be of good moral character.

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

(d) Be currently licensed or registered in this state where licensure or registration in a health profession is a requirement for membership. The member shall have actively practiced that profession or taught in an approved

educational institution that prepares applicants for licensure or registration in that profession, or a combination of both, in any state for not less than the 2 years immediately preceding appointment.

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

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

(b) Have actively practiced the profession licensed or registered by the board or taught in an educational institution that prepares applicants for licensure or registration in that profession, or a combination of both, for not less than the 2 years immediately preceding their appointment.

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

Sec. 16137. The legislature annually shall fix the per diem compensation of the members of the council, the committee, the boards, and the task forces. Expenses of members incurred in the performance of official duties shall be reimbursed as provided in section 1216.

Sec. 16138. (1) A board, the committee, or a task force shall hold regular meetings at places and on separate dates fixed by it. The committee shall meet not less than quarterly. Special meetings may be called by the chairperson, by a majority of the members of the committee, a board, or a task force, or by the department. Except as otherwise provided in this article or in the bylaws of the committee, a board, or a task force, a majority of the members appointed and serving constitute a quorum. Final action by the committee, a board, or a task force shall be taken only by affirmative vote of a majority of the members present at a meeting or for a hearing. A member shall not vote by proxy.

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

Sec. 16139. A board or a task force shall elect annually a chairperson and vice-chairperson at the first meeting held after the date set forth in section 16131. The committee shall elect annually a chairperson and vice-chairperson at the first meeting of each calendar year. The officers shall be selected from board, committee, or task force members and shall hold office for 1 year or until their successors are elected and qualified. The committee, a board, or a task force may fill a vacancy in the office of chairperson or vice-chairperson for the balance of the unexpired term. The chairperson shall preside at meetings, and if absent or unable to preside, the vice-chairperson shall preside.

Sec. 16141. (1) The department shall furnish office services to the committee, the boards, and the task forces; have charge of their offices, records, and money collected; and perform managerial and administrative functions for them.

(2) The department shall appoint administrative and secretarial staff, clerks, and employees necessary to allow the proper exercise of the powers and duties of the committee, a board, or a task force. Salaries and other expenses incurred by the committee, a board, or a task force and staff and expenses for studies and activities authorized under this article shall be paid out of funds appropriated by the legislature for those purposes.

(3) The department may promulgate rules to promote the effective and consistent administration of this article. However, the department shall not promulgate rules that constitute the licensure, registration, or examination of health professionals.

Sec. 16143. (1) The committee, a board, or a task force may adopt bylaws for the regulation of its internal affairs.

(2) The committee, a disciplinary subcommittee, a board, or a task force shall report its activities annually to the department. The report shall include statistical data on applicants for examination, licensure, and registration; allegations and disciplinary actions against licensees and registrants; and other matters relating to the licensure, registration, and regulatory activity of the boards or a task force as prescribed by the department.

(3) The committee, a disciplinary subcommittee, a board, or a task force may perform acts and make determinations necessary and proper to carry out its functions and the department may contract with other state agencies, private agencies, organizations, and consultants to assist the committee, disciplinary subcommittee, board, or task force to perform the acts or to aid in carrying out functions of the committee, board, or task force.

Sec. 16145. (1) A board may adopt and have an official seal.

(2) A board or task force may promulgate rules necessary or appropriate to fulfill its functions as prescribed in this article.

(3) Only a board or task force shall promulgate rules to specify requirements for licenses, registrations, renewals, examinations, and required passing scores.

Sec. 16165. (1) The health professional recovery committee is created in the department and shall consist of the following voting members, appointed as follows:

(a) Subject to subsection (4), each board created under this article and the physician's assistants task force, in consultation with the appropriate professional associations, shall appoint 1 health professional member.

(b) The director shall appoint 2 public members, 1 of whom has specialized training or experience, or both, in treatment of individuals with addictive behavior.

(2) The director shall serve as an ex officio member of the committee without vote.

(3) The director and the boards and the physician's assistants task force shall not appoint as a member of the committee an individual who is at the time of appointment a member of a board or task force.

(4) The members appointed by the boards and the physician's assistants task force under subsection (1)(a) shall have education, training, and clinical expertise in the treatment of individuals with addictive behavior or mental illness, or both.

Sec. 16166. The term of office of an appointed member of the committee is 2 years, commencing on January 1 and terminating on December 31. An appointed member shall not serve more than 2 terms and 1 partial term, consecutive or otherwise. A board or the physician's assistants task force or the director shall fill a vacancy for the balance of the unexpired term in the same manner as the original appointment.

Sec. 16167. The committee shall do all of the following:

(a) Establish the general components of the health professional recovery program and a mechanism for monitoring health professionals who may be impaired.

(b) Subject to sections 16169 and 16170 and in conjunction with the health professional recovery program consultants described in section 16168, develop and implement criteria for the identification, assessment, and treatment of health professionals who may be impaired.

(c) In conjunction with the health professional recovery program consultants described in section 16168, develop and implement mechanisms for the evaluation of continuing care or aftercare plans for health professionals who may be impaired.

(d) Develop a mechanism and criteria for the referral of a health professional who may be impaired to a professional association when appropriate for the purpose of providing assistance to the health professional. In developing criteria under this subdivision, the committee shall require that a referral be made only with the consent of the health professional.

(e) Annually report to each board and the physician's assistants task force created under this article on the status of the health professional recovery program. The committee shall include in the report, at a minimum, statistical information on the level of participation in the program of each health profession. The committee may include in the report recommendations for changes in the health professional recovery program and for participation by the boards and the physician's assistants task force, professional associations, substance abuse treatment and prevention programs, and other appropriate agencies.

Sec. 16168. (1) The department shall enter into a contract with a private entity to act as a consultant to assist the committee with the administration of the health professional recovery program including, but not limited to, the duties described in section 16167(b) and (c). The department shall require the private entity to demonstrate that it has expertise and knowledge regarding the treatment of impaired health professionals.

(2) In the contract between the department and the private entity entered into under subsection (1), the department shall require the private entity to report immediately to the department any circumstances known to the private entity that indicate that an impaired health professional may be a threat to the public health, safety, or welfare.

Sec. 16169. (1) If an individual employed by or under contract to the department has reasonable cause to believe that a health professional may be impaired, the individual shall transmit the information to the committee either orally or in writing. Upon receipt of the information, the committee shall request the program consultant described in section 16168 to determine whether or not the health professional may be impaired.

(2) If, based on the information received by the department under section 16168(2), the department determines that the health professional involved may be a threat to the public health, safety, or welfare and has violated this article or article 7 or the rules promulgated under this article or article 7, the department may proceed under sections 16211 and 16231.

Sec. 16170. (1) If the program consultant described in section 16168 determines under section 16169(1) that a health professional may be impaired, the committee may accept the health professional into the health professional recovery program if both of the following requirements are met:

(a) The health professional acknowledges his or her impairment.

(b) The health professional voluntarily does all of the following:

(*i*) Withdraws from or limits the scope of his or her practice, as determined necessary by the committee. To comply with this subparagraph, a health professional may request the limitation of his or her license under section 16182.

(*ii*) Agrees to participate in a treatment plan that meets the criteria developed under section 16167.

(2) If a health professional does not satisfactorily participate in the treatment plan described in subsection (1)(b)(*ii*), as determined by the committee, the committee shall report that fact to the department.

(3) A health professional participating in or who has participated in a treatment plan under the health professional recovery program or an individual treating the health professional under the treatment plan shall not falsely represent, either individually or together, that the health professional has successfully completed the treatment plan. An individual who intentionally violates this subsection is guilty of a felony.

Sec. 16170a. (1) The identity of an individual submitting information to the committee or the department regarding the suspected impairment of a health professional is confidential.

(2) The identity of a health professional who participates in the health professional recovery program is confidential and is not subject to disclosure under discovery or subpoena or the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws, unless the health professional fails to satisfactorily participate in and complete a treatment plan prescribed under the health professional recovery program or violates section 16170(3).

(3) If a health professional successfully participates in and completes a treatment plan prescribed under the health professional recovery program, as determined by the committee, the department shall destroy all records pertaining to the impairment of the health professional, including records pertaining to the health professional's participation in the treatment plan, upon the expiration of 5 years after the date of the committee's determination. This subsection does not apply to records pertaining to a violation of this article or article 7 or a rule promulgated under this article or article 7.

Sec. 16174. (1) An individual who is licensed or registered under this article shall meet all of the following requirements:

(a) Be 18 or more years of age.

(b) Be of good moral character.

(c) Have a specific education or experience in the health profession or in a subfield or specialty field of a health profession, or training equivalent, or both, as prescribed by this article or rules of a board necessary to promote safe and competent practice and informed consumer choice.

(d) Have a working knowledge of the English language as determined in accordance with minimum standards established for that purpose by the department.

(e) Pay the appropriate fees as prescribed in this article.

(2) In addition to the requirements of subsection (1), an applicant for licensure, registration, or specialty certification under this article shall meet both of the following requirements:

(a) Establish that disciplinary proceedings before a similar licensure, registration, or specialty certification board of this or any other state or country are not pending against the applicant.

(b) Establish that if sanctions have been imposed against the applicant by a similar licensure, registration, or specialty certification board of this or any other state or country based upon grounds that are substantially similar to those set forth in this article or article 7 or the rules promulgated under this article or article 7, as determined by the board or task force to which the applicant applies, the sanctions are not in force at the time of application.

(3) Before licensing, registering, or certifying an applicant, the board or task force to which the applicant applies may do 1 of the following:

(a) Make an independent inquiry into the applicant's compliance with the requirements described in subsection (2). If a licensure or registration board or task force determines under subsection (2)(b) that sanctions have been imposed and are in force at the time of application, the board or task force shall not grant a license or registration or specialty certification to the applicant.

(b) Require the applicant to secure from a national association or federation of state professional licensing boards certification of compliance with the requirements described in subsection (2).

(4) If, after issuing a license, registration, or certification, a board or task force or the department determines that sanctions have been imposed against the licensee or registrant by a similar licensure or registration or certification

board as described in subsection (2)(b) and that the sanctions are still in force, the disciplinary subcommittee may impose appropriate sanctions upon the licensee or registrant. The licensee or registrant may request a show cause hearing before a hearing examiner to demonstrate why the sanctions should not be imposed.

(5) An applicant for licensure, registration, or specialty certification who is or has been licensed, registered, or certified in any profession or specialty by another state or country shall disclose that fact on the application form.

Sec. 16177. (1) An individual applying for licensure or registration under this article shall do so on a form provided by the department. If the facts set forth in the application meet the requirements of the board or task force and this article for licensure or registration, the board or task force shall grant a license or registration to the applicant. A board or task force may require the applicant to take an examination to determine if the applicant meets the qualifications for licensure or registration. The examination shall include subjects determined by the board or task force to be essential to the safe and competent practice of the health profession, the appropriate use of a title, or both. Passing scores or the procedure used to determine passing scores shall be established before an examination is administered.

(2) In addition to the information required under subsection (1), an applicant for licensure or registration or a licensee or registrant applying for renewal shall include on a form provided by the department all of the following information, if applicable:

(a) A felony conviction.

(b) A misdemeanor conviction punishable by imprisonment for a maximum term of 2 years or a misdemeanor conviction involving the illegal delivery, possession, or use of alcohol or a controlled substance.

(c) Sanctions imposed against the applicant by a similar licensure, registration, certification, or disciplinary board of another state or country.

(3) In addition to the information required under subsections (1) and (2), a physician, osteopathic physician, dentist, or podiatrist applying for licensure or renewal under this article shall report to the department on a form provided by the department the name of each hospital with which he or she is employed or under contract, and each hospital in which he or she is allowed to practice.

Sec. 16181. A board may grant a nonrenewable, temporary license to an applicant who has completed all requirements for licensure except for examination or other required evaluation procedure. A board shall not grant a temporary license to an individual who has previously failed the examination or other required evaluation procedure or whose license has been suspended or revoked. A temporary license issued pursuant to this section is valid for 18 months, but a board shall automatically void the temporary license if the applicant fails the examination or other required evaluation procedure. The holder of a temporary license shall practice only under the supervision of a licensee who holds a license, other than a health profession subfield license, in the same health profession. The holder of a temporary license shall not be supervised by a licensee who holds a limited or temporary license. The department shall promptly issue a temporary license.

Sec. 16182. (1) A board may grant a limited license to an individual if the board determines that the limitation is consistent with the ability of the individual to practice the health profession in a safe and competent manner, is necessary to protect the health and safety of patients or clients, or is appropriate to promote the efficient and effective delivery of health care services.

(2) In addition to the licenses issued under subsection (1), a board may grant the following types of limited licenses upon application by an individual or upon its own determination:

(a) Educational, to an individual engaged in postgraduate education.

(b) Nonclinical, to an individual who functions only in a nonclinical academic, research, or administrative setting and who does not hold himself or herself out to the public as being actively engaged in the practice of the health profession, or otherwise directly solicit patients or clients.

(c) Clinical academic, to an individual who practices the health profession only as part of an academic institution and only in connection with his or her employment or other contractual relationship with that academic institution. For an individual applying for a limited license under this subdivision to engage in the practice of medicine under part 170, "academic institution" means that term as defined in section 17001.

Sec. 16186. (1) An individual who is licensed to practice a health profession in another state or who is registered in another state or who holds specialty certification from another state and who applies for licensure, registration, or specialty certification in this state may be granted an appropriate license or registration upon satisfying the board or task force to which the applicant applies as to all of the following:

(a) The applicant substantially meets the requirements of this article and rules promulgated by a board or task force for licensure, registration, or specialty certification.

(b) The applicant is licensed, registered, or certified in another state that maintains standards substantially equivalent to those of this state.

(2) Before licensing, registering, or certifying the applicant, the board or task force to which the applicant applies may require the applicant to appear personally before it for an interview to evaluate the applicant's relevant qualifications.

Sec. 16192. (1) A licensee or registrant shall report to the department a change in name or mailing address not later than 30 days after the change occurs.

(2) The department may serve a notice of hearing or a complaint on an applicant, licensee, or registrant in an action or proceeding for a violation of this article or article 7 or a rule promulgated under this article or article 7 by regular mail and by certified mail, return receipt requested, to the applicant's, licensee's, or registrant's last known address, by serving the notice on the applicant, licensee, or registrant, or by making a reasonable attempt to serve the notice on the applicant, licensee, or registrant. For purposes of this subsection, if service is by mail, service is effective 3 days after the date of mailing, and nondelivery does not affect the validity of the service if the nondelivery was caused by the refusal of the applicant, licensee, or registrant to accept service.

(3) A license or registration is not transferable.

Sec. 16315. (1) The health professions regulatory fund is established in the state treasury. Except as otherwise provided in subsection (6), the state treasurer shall credit the fees collected under sections 16319 to 16349 to the health professions regulatory fund. The money in the health professions regulatory fund shall be expended only as provided in subsection (5).

(2) The state treasurer shall direct the investment of the health professions regulatory fund. Interest and earnings from health professions regulatory fund investment shall be credited to the health professions regulatory fund.

(3) The unencumbered balance in the health professions regulatory fund at the close of the fiscal year shall remain in the health professions regulatory fund and shall not revert to the general fund.

(4) The health professions regulatory fund may receive gifts and devises and other money as provided by law.

(5) The department shall use the health professions regulatory fund only to carry out its powers and duties under this article and article 7.

(6) The nurse professional fund is established in the state treasury. Of the money that is attributable to per-year license fees collected under section 16327, the state treasurer shall credit $2.00 of each individual annual license fee collected to the nurse professional fund. The money in the nurse professional fund shall be expended only as provided in subsection (9).

(7) The state treasurer shall direct the investment of the nurse professional fund, and shall credit interest and earnings from the investment to the nurse professional fund. The nurse professional fund may receive gifts and devises and other money as provided by law.

(8) The unencumbered balance in the nurse professional fund at the close of the fiscal year shall remain in the nurse professional fund and shall not revert to the general fund.

(9) The department shall use the nurse professional fund each fiscal year only as follows:

(a) The department may use not more than 1/3 of the nurse professional fund for the establishment and operation of a nurse continuing education program.

(b) The department may use not more than 1/3 of the nurse professional fund to perform research and development studies to promote and advance the nursing profession.

(c) The department shall use not less than 1/3 of the nurse professional fund to establish and operate a nursing scholarship program.

(10) Within 2 years after the effective date of this section, the department shall promulgate rules to implement subsection (9) including, but not limited to, rules governing the continuing education program and rules to establish eligibility criteria for participation in the nursing scholarship program, application procedures, and maximum amounts for individual scholarships.

Sec. 16317. (1) At the beginning of each state fiscal year, the department may increase the fees collected under sections 16319 to 16349 by a percentage amount equal to not more than the average percentage wage and salary increase granted for that fiscal year to classified civil service employees employed by the department.

(2) If the department increases fees under subsection (1), the increase shall be effective for that fiscal year. The increased fees shall be used by the department as the basis for calculating fee increases in subsequent fiscal years.

(3) By August 1 of each year the department shall provide to the director of the department of management and budget and the chairpersons of the appropriations committees of the senate and house of representatives a complete schedule of fees to be collected under sections 16319 to 16349 for the following fiscal year.

Sec. 16319. (1) Until September 30, 1993, fees for a person licensed or seeking licensure to engage in the manufacturing, distributing, prescribing, or dispensing of controlled substances or the conducting of research with controlled substances under part 73 are as follows:

(a) Application processing fee $10.00

(b) License fee, per year 75.00

(2) After September 30, 1993, fees for a person licensed or seeking licensure to engage in the manufacturing, distributing, prescribing, or dispensing of controlled substances or the conducting of research with controlled substances under part 73 are as follows:

(a) Application processing fee $10.00

(b) License fee, per year 55.00

Sec. 16321. Fees for a person licensed or seeking licensure to engage in the practice of chiropractic under part 164 are as follows:

(a) Application processing fee ..... $ 20.00

(b) Examination fees:

(*i*) Complete examination 100.00

(*ii*) Per part 15.00

(*iii*) Examination review 20.00

(c) License fee, per year 90.00

(d) Temporary license 25.00

(e) Limited license, per year 25.00

Sec. 16323. Fees for a person licensed or seeking licensure to practice as a dentist, dental assistant, or dental hygienist under part 166 are as follows:

(a) Application processing fees:

(*i*) Dentist ..... $ 20.00

(*ii*) Dental assistant 10.00

(*iii*) Dental hygienist 15.00

(*iv*) Dental specialty 20.00

(b) Examination fees:

(*i*) Dental assistant's examination, complete 70.00

(*ii*) Dental assistant's examination, per part 35.00

(*iii*) Dental specialty examination, complete 300.00

(*iv*) Dental specialty examination, per part 100.00

(c) License fees, per year:

(*i*) Dentist 90.00

(*ii*) Dental assistant 10.00

(*iii*) Dental hygienist 20.00

(*iv*) Dental specialty 15.00

(d) Temporary license fees:

(*i*) Dentist 20.00

(*ii*) Dental assistant 5.00

(*iii*) Dental hygienist 10.00

(e) Limited license fee, per year:

(*i*) Dentist 25.00

(*ii*) Dental assistant 5.00

(*iii*) Dental hygienist 10.00

(f) Examination review fees:

(*i*) Dental preclinical or specialty 50.00

(*ii*) Dental assistant 20.00

Sec. 16325. Fees for a person licensed or seeking licensure to engage in the practice of medicine under part 170 are as follows:

(a) Application processing fee	$ 50.00
(b) License fee, per year	90.00
(c) Temporary license fee	25.00
(d) Limited license fee, per year	30.00

Sec. 16327. Fees for a person licensed or seeking licensure to practice nursing as a registered nurse, a licensed practical nurse, or a trained attendant under part 172 are as follows:

(a) Application processing fee	$ 20.00
(b) License fee, per year	20.00
(c) Temporary license	10.00
(d) Limited license, per year	10.00
(e) Specialty certification for registered nurse:	
(*i*) Application processing fee	20.00
(*ii*) Specialty certification, per year	10.00

Sec. 16329. Fees for a person licensed or seeking licensure to engage in the practice of optometry under part 174 are as follows:

(a) Application processing fee	$ 20.00
(b) Examination fees:	
(*i*) Complete examination	200.00
(*ii*) Examination, per part	50.00
(*iii*) Examination review	20.00
(c) License fee, per year	90.00
(d) Limited license, per year	25.00
(e) Temporary license	25.00
(f) Certification to use topical ocular diagnostic pharmaceutical agents:	
(*i*) Application processing fee	20.00
(*ii*) Certification	55.00

Sec. 16331. Fees for a person licensed or seeking licensure to engage in the practice of osteopathic medicine and surgery under part 175 are as follows:

(a) Application processing fee	$ 50.00
(b) License fee, per year	90.00
(c) Temporary license fee	25.00
(d) Limited license fee, per year	30.00

Sec. 16333. Fees for a person licensed or seeking licensure to engage in the practice of pharmacy or other practices regulated under part 177 are as follows:

(a) Application processing fees:	
(*i*) Pharmacist	$ 20.00
(*ii*) Pharmacy	35.00
(*iii*) Drug control	20.00
(*iv*) Manufacturer or wholesaler	50.00
(*v*) Clinical thermometer	50.00
(b) Examination fees:	
Jurisprudence examination	30.00
(c) License fees, per year:	
(*i*) Pharmacist	30.00
(*ii*) Pharmacy	50.00

(*iii*) Drug control 15.00
(*iv*) Manufacturer or wholesaler 25.00
(*v*) Clinical thermometer 25.00
(d) Temporary license for pharmacist 25.00
(e) Limited license for pharmacist, per year 15.00

Sec. 16335. Fees for a person licensed or seeking licensure to engage in the practice of physical therapy under part 178 are as follows:

(a) Application processing fee ..... $ 20.00
(b) Examination fees:
Jurisprudence examination only 25.00
(c) License fee, per year 50.00
(d) Temporary license 20.00
(e) Limited license, per year 25.00

Section 2. This amendatory act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

(a) House Bill No. 4077.
(b) House Bill No. 4078.
(c) House Bill No. 4080.
(d) House Bill No. 4289.
(e) House Bill No. 4290.
(f) House Bill No. 4292.
(g) House Bill No. 4295.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved ----------

Governor.