

Act No. 79
Public Acts of 1993
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STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993

Introduced by Reps. Jamian, Bandstra, Horton, Jaye, Bodem, McNutt, Hammerstrom, Gustafson and Crissman

ENROLLED HOUSE BILL No. 4295

AN ACT to amend sections 16211, 16221, 16224, 16226, 16227, 16231, 16232, 16233, 16234, 16235, 16236, 16241, 16243, 16244, 16245, 16247, 16248, 16249, 16291, 16294, 16301, 16421, 16648, 17011, 17021, 17221, 17412, 17421, 17521, 17721, 17747, 17763, 17767, 17768, 17821, 18021, 18103, 18117, 18221, 18237, 18305, 18421, 18821, 18835, 20175, 21006, and 21513 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 16211, 16231, 16233, 16243, 16244, and 20175 as amended by Act No. 174 of the Public Acts of 1986, sections 16221 and 16226 as amended by Act No. 15 of the Public Acts of 1989, section 16245 as amended by Act No. 462 of the Public Acts of 1988, section 16301 as amended by Act No. 462 of the Public Acts of 1988, section 16648 as added by Act No. 89 of the Public Acts of 1983, section 17011 as amended by Act No. 248 of the Public Acts of 1990, section 17221 as amended by Act No. 201 of the Public Acts of 1989, section 17412 as added by Act No. 42 of the Public Acts of 1984, section 17747 as amended by Act No. 333 of the Public Acts of 1990, section 17768 as amended by Act No. 250 of the Public Acts of 1987, sections 18103 and 18117 as added by Act No. 421 of the Public Acts of 1988, section 18305 as added by Act No. 473 of the Public Acts of 1988, section 18821 as amended by Act No. 353 of the Public Acts of 1982, section 21006 as amended by Act No. 354 of the Public Acts of 1982, and section 21513 as amended by Act No. 179 of the Public Acts of 1990, being sections 333.16211, 333.16221, 333.16224, 333.16226, 333.16227, 333.16231, 333.16232, 333.16233, 333.16234, 333.16235, 333.16236, 333.16241, 333.16243, 333.16244, 333.16245, 333.16247, 333.16248, 333.16249, 333.16291, 333.16294, 333.16301, 333.16421, 333.16648, 333.17011, 333.17021, 333.17221, 333.17412, 333.17421, 333.17521, 333.17721, 333.17747, 333.17763, 333.17767, 333.17768, 333.17821, 333.18021, 333.18103, 333.18117, 333.18221, 333.18237, 333.18305, 333.18421, 333.18821, 333.18835, 333.20175, 333.21006, and 333.21513 of the Michigan Compiled Laws; to add sections 16216, 16222, 16223, 16231a, 16237, 16238, 16239, 16337, 16339, 16341, 16343, 16345, 16347, 16349, 20176a, and 20194; and to repeal certain parts of the act.

Section 1. Sections 16211, 16221, 16224, 16226, 16227, 16231, 16232, 16233, 16234, 16235, 16236, 16241, 16243, 16244, 16245, 16247, 16248, 16249, 16291, 16294, 16301, 16421, 16648, 17011, 17021, 17221, 17412, 17421, 17521, 17721, 17747, 17763, 17767, 17768, 17821, 18021, 18103, 18117, 18221, 18237, 18305, 18421, 18821, 18835, 20175, 21006, and 21513 of Act No. 368 of the Public Acts of 1978, sections 16211, 16231, 16233, 16243, 16244, and 20175 as amended by Act No. 174 of the Public Acts of 1986, sections 16221 and 16226 as amended by Act No. 15 of the Public Acts of 1989, section 16245 as amended by Act No. 462 of the Public Acts of 1988, section 16301 as amended by Act No. 462 of the Public Acts of 1988, section 16648 as added by Act No. 89 of the Public Acts of 1983, section 17011 as amended by Act No. 248 of the Public Acts of 1990, section 17221 as amended by Act No. 201 of the Public Acts of 1989, section 17412 as added by Act No. 42 of the Public Acts of 1984, section 17747 as amended by Act No. 333 of the Public Acts of 1990, section 17768 as amended by Act No. 250 of the Public Acts of 1987, sections 18103 and 18117 as added by Act No. 421 of the Public Acts of 1988, section 18305 as added by Act No. 473 of the Public Acts of 1988, section 18821 as amended by Act No. 353 of the Public Acts of 1982, section 21006 as amended by Act No. 354 of the Public Acts of 1982, and section 21513 as amended by Act No. 179 of the Public Acts of 1990, being sections 333.16211, 333.16221, 333.16224, 333.16226, 333.16227, 333.16231, 333.16232, 333.16233, 333.16234, 333.16235, 333.16236, 333.16241, 333.16243, 333.16244, 333.16245, 333.16247, 333.16248, 333.16249, 333.16291, 333.16294, 333.16301, 333.16421, 333.16648, 333.17011, 333.17021, 333.17221, 333.17412, 333.17421, 333.17521, 333.17721, 333.17747, 333.17763, 333.17767, 333.17768, 333.17821, 333.18021, 333.18103, 333.18117, 333.18221, 333.18237, 333.18305, 333.18421, 333.18821, 333.18835, 333.20175, 333.21006, and 333.21513 of the Michigan Compiled Laws, are amended and sections 16216, 16222, 16223, 16231a, 16237, 16238, 16239, 16337, 16339, 16341, 16343, 16345, 16347, 16349, 20176a, and 20194 are added to read as follows:

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

(2) The individual historical record shall include a written allegation against the licensee or registrant that is substantiated after investigation.

(3) The individual historical record may include other items concerning a licensee's or registrant's record of practice that the appropriate board determines will facilitate proper and periodic review, but only those items as designated by rule.

(4) The department shall promptly review the entire file of a licensee or registrant, including all prior matters with respect to which no action was taken at the time, with respect to whom there is received 1 or more of the following:

(a) A notice of revocation, suspension, or limitation of staff privileges or a change in employment status due to disciplinary action by a licensed health facility.

(b) A written allegation of a violation of this article, article 7, or a rule promulgated under this article or article 7 that is substantiated after investigation.

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

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

(e) Written notice of 1 or more of the following:

(i) A felony conviction.

(ii) A misdemeanor conviction punishable by imprisonment for a maximum term of 2 years.

(iii) A misdemeanor conviction, if the misdemeanor involves the illegal delivery, possession, or use of alcohol or a controlled substance.

(f) Notice that a licensee or registrant is ineligible to participate as a provider in a federally funded health insurance or health benefits program based upon the licensee's or registrant's failure to meet the program's standards of professional practice. A certified copy of the action or final order making the licensee or registrant ineligible is sufficient notice for purposes of this subdivision.

(g) A report or notice under section 16222.

(h) Notice of a disciplinary action by a licensure, registration, disciplinary, or specialty certification board in another state.

(5) The department shall retain written allegations that are unsubstantiated for 5 years, after which the department shall remove the allegations from the file, if no further allegations against the licensee or registrant have been received by the department within the 5-year period.

(6) Except as provided in section 16231(6), a licensee, registrant, or applicant may review his or her individual historical record.

Sec. 16216. (1) The chair of each board or task force shall appoint 1 or more disciplinary subcommittees for that board or task force. A disciplinary subcommittee for a board or task force with more than 10 total members shall consist of 2 public members and 3 professional members from the board or task force. A disciplinary subcommittee for a board or task force with less than 10 total members shall consist of 1 public member and 2 professional members from the board or task force. The chair of a board or task force shall not serve as a member of a disciplinary subcommittee.

(2) A final decision of the disciplinary subcommittee finding a violation of this article or article 7 shall be by a majority vote of the members appointed and serving on the disciplinary subcommittee.

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

(4) The chairperson of each disciplinary subcommittee shall be a public member and shall be appointed by the chair of the board or task force.

Sec. 16221. The department may investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The department may hold hearings, administer oaths, and order relevant testimony to be taken and shall report its findings to the appropriate disciplinary subcommittee. The disciplinary subcommittee shall proceed under section 16226 if it finds that any of the following grounds exist:

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

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

(i) Incompetence.

(ii) Subject to sections 16165 to 16170a, substance abuse as defined in section 6107.

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

(iv) Declaration of mental incompetence by a court of competent jurisdiction.

(v) Conviction of a misdemeanor punishable by imprisonment for a maximum term of 2 years, a misdemeanor involving the illegal delivery, possession, or use of alcohol or a controlled substance, or a felony. A certified copy of the court record is conclusive evidence of the conviction.

(vi) Lack of good moral character.

(vii) Conviction of a criminal offense under sections 520a to 520l of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.520a to 750.520l of the Michigan Compiled Laws. A certified copy of the court record is conclusive evidence of the conviction.

(viii) Conviction of a violation of section 492a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.492a of the Michigan Compiled Laws. A certified copy of the court record is conclusive evidence of the conviction.

(ix) Conviction of a misdemeanor or felony involving fraud in obtaining or attempting to obtain fees related to the practice of a health profession. A certified copy of the court record is conclusive evidence of the conviction.

(x) Final adverse administrative action by a licensure, registration, disciplinary, or certification board involving the holder of, or an applicant for, a license or registration regulated by another state or a territory of the United States. A certified copy of the record of the board is conclusive evidence of the final action.

(xi) Conviction of a misdemeanor that is reasonably related to or that adversely affects the licensee's ability to practice in a safe and competent manner. A certified copy of the court record is conclusive evidence of the conviction.

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

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

(ii) Permitting the license or registration to be used by an unauthorized person.

(iii) Practice outside the scope of a license.

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

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

(i) False or misleading advertising.

(ii) Dividing fees for referral of patients or accepting kickbacks on medical or surgical services, appliances, or medications purchased by or in behalf of patients.

- (iii) Fraud or deceit in obtaining or attempting to obtain third party reimbursement.
- (e) Unprofessional conduct, consisting of any of the following:
 - (i) Misrepresentation to a consumer or patient or in obtaining or attempting to obtain third party reimbursement in the course of professional practice.
 - (ii) Betrayal of a professional confidence.
 - (iii) Promotion for personal gain of an unnecessary drug, device, treatment, procedure, or service.
 - (iv) Directing or requiring an individual to purchase or secure a drug, device, treatment, procedure, or service from another person, place, facility, or business in which the licensee has a financial interest.
- (f) Failure to report a change of name or mailing address within 30 days after the change occurs.
- (g) A violation, or aiding or abetting in a violation, of this article or of rules promulgated under this article.
- (h) Failure to comply with a subpoena issued pursuant to this part, failure to respond to a complaint issued under this article or article 7, failure to appear at a compliance conference or an administrative hearing, or failure to report under section 16222 or 16223.
- (i) Failure to pay an installment of an assessment levied pursuant to section 2504 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, as amended, being section 500.2504 of the Michigan Compiled Laws, within 60 days after notice by the appropriate board.
- (j) A violation of section 17013 or 17513.
- (k) Failure to meet 1 or more of the requirements for licensure or registration under section 16174.

Sec. 16222. (1) A licensee or registrant having knowledge that another licensee or registrant has committed a violation under section 16221 or article 7 or a rule promulgated under article 7 shall report the conduct and the name of the subject of the report to the department. Information obtained by the department under this subsection is confidential and is subject to sections 16238 and 16244. Failure of a licensee or registrant to make a report under this subsection does not give rise to a civil cause of action for damages against the licensee or registrant, but the licensee or registrant is subject to administrative action under sections 16221 and 16226. This subsection does not apply to a licensee or registrant who obtains the knowledge of a violation while providing professional services to the licensee or registrant to whom the knowledge applies, who is serving on a duly constituted ethics or peer review committee of a professional association, or who is serving on a committee assigned a professional review function in a health facility or agency.

(2) Unless the licensee or registrant making the report otherwise agrees in writing, the identity of the licensee or registrant making the report shall remain confidential unless disciplinary proceedings under this part are initiated against the subject of the report and the licensee or registrant making the report is required to testify in the proceedings.

(3) A licensee or registrant shall notify the department of a criminal conviction or a disciplinary licensing or registration action taken by another state against the licensee or registrant within 30 days after the date of the conviction or action. This subsection includes, but is not limited to, a disciplinary action that is stayed pending appeal.

Sec. 16223. (1) Except as otherwise provided in this section, a licensee or registrant who has reasonable cause to believe that a licensee, registrant, or applicant is impaired shall report that fact to the department. For purposes of this subsection, a report filed with the committee or with the program consultants described in section 16168 is considered to be filed with the department. A licensee or registrant who fails to report under this subsection is not liable in a civil action for damages resulting from the failure to report, but the licensee or registrant is subject to administrative action under sections 16221 and 16226.

(2) This section does not apply to a licensee or registrant who is in a bona fide health professional-patient relationship with a licensee, registrant, or applicant believed to be impaired.

(3) A licensee or registrant who in good faith complies with this section is not liable for damages in a civil action or subject to prosecution in a criminal proceeding as a result of the compliance.

Sec. 16224. (1) Failure or refusal to submit to an examination that the department, a disciplinary subcommittee, or a board or task force is authorized to require under this part after reasonable notice and opportunity for a hearing constitutes a ground for denial or suspension of a license or registration until the examination is taken.

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

Sec. 16226. (1) After finding the existence of 1 or more of the grounds for disciplinary subcommittee action listed in section 16221, a disciplinary subcommittee shall impose 1 or more of the following sanctions for each violation:

Violations of Section 16221

Sanctions

Subdivision (a), (b)(i), (b)(iv), (b)(vi), or (b)(vii)	Probation, limitation, denial, suspension, revocation, restitution, community service, or fine.
Subdivision (b)(viii)	Revocation or denial.
Subdivision (b)(i), (b)(iii), (b)(v), (b)(ix), (b)(x), or (b)(xi)	Limitation, suspension, revocation, denial, probation, restitution, community service, or fine.
Subdivision (c)(i)	Denial, revocation, suspension, probation, limitation, community service, or fine.
Subdivision (c)(ii)	Denial, suspension, revocation, restitution, community service, or fine.
Subdivision (c)(iii)	Probation, denial, suspension, revocation, restitution, community service, or fine.
Subdivision (c)(iv) or (d)(iii)	Fine, probation, denial, suspension, revocation, community service, or restitution.
Subdivision (d)(i) or (d)(ii)	Reprimand, fine, probation, community service, denial, or restitution.
Subdivision (e)(i)	Reprimand, fine, probation, limitation, suspension, community service, denial, or restitution.
Subdivision (e)(ii) or (h)	Reprimand, probation, suspension, restitution, community service, denial, or fine.
Subdivision (e)(iii) or (e)(iv)	Reprimand, fine, probation, suspension, revocation, limitation, community service, denial, or restitution.
Subdivision (f)	Reprimand or fine.
Subdivision (g)	Reprimand, probation, denial, suspension, revocation, limitation, restitution, community service, or fine.
Subdivision (i)	Suspension or fine.
Subdivision (j)	Reprimand or fine.
Subdivision (k)	Reprimand, denial, or limitation.

(2) Determination of sanctions for violations under this section shall be made by a disciplinary subcommittee. If, during judicial review, the court of appeals determines that a final decision or order of a disciplinary subcommittee prejudices substantial rights of the petitioner for any of the grounds listed in section 106 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.306 of the Michigan Compiled Laws, and holds that the final decision or order is unlawful and is to be set aside, the court shall state on the record the reasons for the holding and may remand the case to the disciplinary subcommittee for further consideration.

(3) A disciplinary subcommittee may impose a fine of up to, but not exceeding, \$250,000.00 for a violation of section 16221(a) or (b).

(4) A disciplinary subcommittee may require a licensee or registrant or an applicant for licensure or registration who has violated this article or article 7 or a rule promulgated under this article or article 7 to satisfactorily complete an educational program, a training program, or a treatment program, a mental, physical, or professional competence examination, or a combination of those programs and examinations.

Sec. 16227. (1) For an offense committed within 2 years after a previous offense of the same kind, a disciplinary subcommittee may suspend or revoke the license or registration.

(2) Section 16226 and this section do not limit any other sanction or additional action a disciplinary subcommittee is authorized to impose or take.

Sec. 16231. (1) A person or governmental entity who believes that a violation of this article or article 7 or a rule promulgated under this article or article 7 exists may make an allegation of that fact to the department in writing.

(2) If, upon reviewing an application or an allegation or a licensee's file under section 16211(4), the department determines there is a reasonable basis to believe the existence of a violation of this article or article 7 or a rule promulgated under this article or article 7, the department, with the authorization of the chair of the applicant's, licensee's, or registrant's board or task force or his or her designee, shall investigate. If the chair or his or her designee fails to grant or deny authorization within 7 days after receipt of a request for authorization, the department shall investigate.

(3) Upon the receipt of information reported pursuant to section 16243(2) that indicates 3 or more malpractice settlements, awards, or judgments against a licensee in a period of 5 consecutive years or 1 or more malpractice settlements, awards, or judgments against a licensee totaling more than \$200,000.00 in a period of 5 consecutive years, whether or not a judgment or award is stayed pending appeal, the department shall investigate.

(4) At any time during an investigation or following the issuance of a complaint, the department may schedule a compliance conference pursuant to section 92 of the administrative procedures act of 1969, being section 24.292 of the Michigan Compiled Laws. The conference may include the applicant, licensee, or registrant, the applicant's, licensee's,

or registrant's attorney, 1 member of the department's staff, and any other individuals approved by the department. One member of the appropriate board or task force who is not a member of the disciplinary subcommittee with jurisdiction over the matter may attend the conference and provide such assistance as needed. At the compliance conference, the department shall attempt to reach agreement. If an agreement is reached, the department shall submit a written statement outlining the terms of the agreement, or a stipulation and final order, if applicable, or a request for dismissal to the appropriate disciplinary subcommittee for approval. If the agreement or stipulation and final order or request for dismissal is rejected by the disciplinary subcommittee, or if no agreement is reached, a hearing before a hearings examiner shall be scheduled. A party shall not make a transcript of the compliance conference. All records and documents of a compliance conference held before a complaint is issued are subject to section 16238.

(5) Within 90 days after an investigation is initiated under subsection (2) or (3), the department shall do 1 or more of the following:

- (a) Issue a formal complaint.
- (b) Conduct a compliance conference under subsection (4).
- (c) Issue a summary suspension.
- (d) Issue a cease and desist order.
- (e) Dismiss the complaint.

(f) Place in the complaint file not more than 1 written extension of not more than 30 days to take action under this subsection.

(6) Unless the person submitting the allegation under subsection (1) otherwise agrees in writing, the department shall keep the identity of a person submitting the allegation confidential until disciplinary proceedings under this part are initiated against the subject of the allegation and the person making the allegation is required to testify in the proceedings.

(7) The department shall serve a complaint pursuant to section 16192. The department shall include in the complaint a notice that the applicant, licensee, or registrant who is the subject of the complaint has 30 days from the date of receipt to respond in writing to the complaint.

(8) The department shall treat the failure of the applicant, licensee, or registrant to respond to the complaint within the 30-day period set forth in subsection (7) as an admission of the allegations contained in the complaint. The department shall notify the appropriate disciplinary subcommittee of the individual's failure to respond and shall forward a copy of the complaint to that disciplinary subcommittee. The disciplinary subcommittee may then impose an appropriate sanction under this article or article 7.

Sec. 16231a. (1) If an agreement is not reached at a compliance conference held under section 16231(4), or if an agreement is reached but is rejected by a disciplinary subcommittee and the parties do not reach a new agreement, the department shall hold a hearing before a hearings examiner employed by or under contract to the department. If an agreement is reached but is rejected by the disciplinary subcommittee, the department shall not hold another compliance conference, but may continue to try and reach a new agreement. The hearings examiner shall conduct the hearing within 60 days after the compliance conference at which an agreement is not reached or after the agreement is rejected by the disciplinary subcommittee, unless a new agreement is reached and approved by the disciplinary subcommittee. One member of the appropriate board or task force who is not a member of the disciplinary subcommittee with jurisdiction over the matter may attend the hearing and provide such assistance as needed.

(2) The hearings examiner shall determine if there are grounds for disciplinary action under section 16221 or if the applicant, licensee, or registrant has violated this article or article 7 or the rules promulgated under this article or article 7. The hearings examiner shall prepare recommended findings of fact and conclusions of law for transmittal to the appropriate disciplinary subcommittee. The hearings examiner shall not recommend or impose penalties.

(3) The applicant, licensee, or registrant who is the subject of the complaint or the department of attorney general may request and be granted not more than 1 continuance by the hearings examiner for good cause shown.

(4) The applicant, licensee, or registrant may be represented at the hearing by legal counsel. The department shall be represented at the hearing by an assistant attorney general from the department of attorney general. The assistant attorney general shall not be the same individual assigned by the department of attorney general to provide legal counsel to the board or the special assistant attorney general described in section 16237.

(5) Unless a continuance has been granted under subsection (3), failure of an applicant, licensee, or registrant to appear or be represented at a scheduled hearing shall be treated by the hearings examiner as a default and an admission of the allegations contained in the complaint. The hearings examiner shall notify the appropriate disciplinary subcommittee of the individual's failure to appear and forward a copy of the complaint and any other relevant records to the disciplinary subcommittee. The disciplinary subcommittee may then impose an appropriate sanction under this article or article 7, or both.

Sec. 16232. (1) The department shall provide an opportunity for a hearing in connection with the denial, reclassification, limitation, reinstatement, suspension, or revocation of a license or a proceeding to reprimand, fine, order community service or restitution, or place a licensee on probation.

(2) The department shall provide an opportunity for a hearing in connection with the denial, limitation, suspension, revocation, or reinstatement of a registration or a proceeding to reprimand, fine, order community service or restitution, or place a registrant on probation.

(3) A disciplinary subcommittee shall meet within 60 days after receipt of the recommended findings of fact and conclusions of law from a hearings examiner to impose a penalty.

(4) Only the department shall promulgate rules governing hearings under this article or article 7 and related preliminary proceedings.

Sec. 16233. (1) The department may conduct an investigation necessary to administer and enforce this article. Investigations may include written, oral, or practical tests of a licensee's or registrant's competency. The department may establish a special paralegal unit to assist the department.

(2) The department may order an individual to cease and desist from a violation of this article or article 7 or a rule promulgated under this article or article 7.

(3) An individual ordered to cease and desist under subsection (2) is entitled to a hearing before a hearings examiner if the individual files a written request for a hearing within 30 days after the effective date of the cease and desist order. The department shall subsequently present the notice, if any, of the applicant's, licensee's, or registrant's failure to respond to a complaint, or attend or be represented at a hearing as described in sections 16231 and 16231a, or the recommended findings of fact and conclusions of law to the appropriate disciplinary subcommittee to determine whether the order is to remain in effect or be dissolved.

(4) Upon a violation of a cease and desist order issued under subsection (2), the department of attorney general may apply in the circuit court to restrain and enjoin, temporarily or permanently, an individual from further violating the cease and desist order.

(5) After consultation with the chair of the appropriate board or task force or his or her designee, the department may summarily suspend a license or registration if the public health, safety, or welfare requires emergency action in accordance with section 92 of the administrative procedures act of 1969, being section 24.292 of the Michigan Compiled Laws. If a licensee or registrant is convicted of a felony or a misdemeanor punishable by imprisonment for a maximum term of 2 years or a misdemeanor involving the illegal delivery, possession, or use of alcohol or a controlled substance, the department shall find that the public health, safety, or welfare requires emergency action and shall suspend the licensee's license or the registrant's registration.

Sec. 16234. The department may hold hearings and administer oaths and order testimony to be taken at a hearing or by deposition conducted pursuant to the administrative procedures act of 1969.

Sec. 16235. (1) Upon application by the attorney general or a party to a contested case, the circuit court may issue a subpoena requiring a person to appear before a hearings examiner in a contested case or before the department in an investigation and be examined with reference to a matter within the scope of that contested case or investigation and to produce books, papers, or documents pertaining to that contested case or investigation. A subpoena issued under this subsection may require a person to produce all books, papers, and documents pertaining to all of a licensee's or registrant's patients in a health facility on a particular day if the allegation that gave rise to the disciplinary proceeding was made by or pertains to 1 or more of those patients.

(2) A copy of a record of a board or a task force or a disciplinary subcommittee or a hearings examiner certified by a person designated by the director is prima facie evidence of the matters recorded and is admissible as evidence in a proceeding in this state with the same force and effect as if the original were produced.

Sec. 16236. (1) In a hearing or an investigation where mental or physical inability or substance abuse under section 16221 or impairment is alleged, a disciplinary subcommittee or a hearings examiner or the department with the approval of a disciplinary subcommittee may require the applicant, licensee, or registrant to submit to a mental or physical examination conducted by physicians or other appropriate health professionals designated by the disciplinary subcommittee or the department. An examination conducted under this subsection shall be at the expense of the department.

(2) For purposes of this section, an individual licensed or registered under this part who accepts the privilege of practicing in this state, by so practicing or by receiving a license or renewal to practice or by receiving registration, and an individual who applies for licensure or registration, consents to submit to a mental or physical examination under subsection (1) when directed to do so in writing by a disciplinary subcommittee, a hearings examiner, or the department. The individual waives all objections to the admissibility of the testimony or examination reports of the examining health professional on the ground that the testimony or reports constitute privileged communications.

Sec. 16237. (1) In imposing a penalty under section 16232(3), a disciplinary subcommittee shall review the recommended findings of fact and conclusions of law of the hearings examiner.

(2) An independent special assistant attorney general who is under contract to the department of attorney general and is not a member of the state classified civil service shall advise the disciplinary subcommittees on matters of law and provide other legal assistance as necessary. The special assistant attorney general assigned to the disciplinary subcommittees shall not be the same individual who represented the department before a hearings examiner under section 16231a(4).

(3) In reviewing the recommended findings of fact and conclusions of law of the hearings examiner and the record of the hearing, a disciplinary subcommittee may request the hearings examiner to take additional testimony or evidence on a specific issue or may revise the recommended findings of fact and conclusions of law as determined necessary by the disciplinary subcommittee, or both.

(4) If a disciplinary subcommittee finds that a preponderance of the evidence supports the recommended findings of fact and conclusions of law of the hearings examiner indicating that grounds exist for disciplinary action, the disciplinary subcommittee shall impose an appropriate sanction under this article or article 7, or both. If the disciplinary subcommittee finds that a preponderance of the evidence does not support the findings of fact and conclusions of law of the hearings examiner indicating that grounds exist for disciplinary action, the disciplinary subcommittee shall dismiss the complaint. A disciplinary subcommittee shall report final action taken by it in writing to the appropriate board or task force.

(5) The compliance conference, the hearing before the hearings examiner, and final disciplinary subcommittee action shall be completed within 1 year after the department initiates an investigation under section 16231(2) or (3). The department shall note in its annual report any exceptions to the 1-year requirement.

(6) A final decision of a disciplinary subcommittee may be appealed to the court of appeals. An appeal filed under this subsection shall be by right.

Sec. 16238. (1) Except as otherwise provided in section 13(1)(u)(i) and (ii) of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.243 of the Michigan Compiled Laws, the information including, but not limited to, patient names, obtained in an investigation or a compliance conference before a complaint is issued, is confidential and shall not be disclosed except to the extent necessary for the proper functioning of a hearings examiner, a disciplinary subcommittee, or the department.

(2) A compliance conference conducted under this part before a complaint is issued shall be closed to the public.

Sec. 16239. Each licensee or registrant who is in private practice shall make available upon request of a patient a pamphlet provided by the department outlining the procedure for filing an allegation with the department under section 16231. The department shall prepare the pamphlet in consultation with appropriate professional associations and the boards and task forces. The department shall prepare and print the pamphlet in languages that are appropriate to the ethnic composition of the patient population where the pamphlet will be available.

Sec. 16241. (1) After administrative disciplinary action is final, the department of commerce shall publish a list of the names and addresses of disciplined individuals. The department of commerce shall indicate on the list that a final administrative disciplinary action is subject to judicial review. The department of commerce shall report disciplinary action to the department of public health, the commissioner of insurance, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association.

(2) Once each calendar year, the department of commerce shall transmit to the library of Michigan sufficient copies of a compilation of the lists required under subsection (1) for the immediately preceding 3 calendar years. The library of Michigan shall distribute the compilation to each depository library in the state. The department of commerce also shall transmit the compilation to each county clerk in the state once each calendar year.

(3) The department of public health shall report the disciplinary actions to appropriate licensed health facilities and agencies. The commissioner of insurance shall report the disciplinary actions received from the department of commerce to insurance carriers providing professional liability insurance.

(4) In case of a summary suspension of a license under section 16233(5), the department of commerce shall report the name and address of the individual whose license has been suspended to the department of public health, the commissioner of insurance, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association.

(5) A licensee or registrant whose license or registration is revoked or is suspended for more than 60 days under this article or article 7 shall notify in writing each patient or client to whom the licensee or registrant rendered services in the licensee's or registrant's private practice within the year immediately preceding the date of the final order imposing the revocation or suspension and each individual who contacts the licensee or registrant for professional services during the term of the revocation or suspension. The notice shall be on a form provided by the licensee's or

registrant's board or task force and shall state, at a minimum, the name, address, and license or registration number of the licensee or registrant, the fact that his or her license or registration has been revoked or suspended, the effective date of the revocation or suspension, and the term of the revocation or suspension. Each board or task force shall develop a notice form that meets at least the minimum requirements of this subsection. The licensee or registrant shall send the notice to each patient or client to whom the licensee or registrant rendered services in the licensee's or registrant's private practice within the year immediately preceding the date of the final order imposing the revocation or suspension within 30 days after the date of the final order imposing the revocation or suspension and shall simultaneously transmit a copy of the notice to the department. The licensee or registrant shall notify each individual who contacts the licensee or registrant for professional services during the term of the revocation or suspension at the time of contact. The licensee or registrant shall also provide a copy of the notice within 10 days after the date of the final order imposing the revocation or suspension to his or her employer, if any, and to each hospital, if any, in which the licensee or registrant is admitted to practice.

(6) A licensee or registrant who is reprimanded, fined, placed on probation, or ordered to pay restitution under this article or an applicant whose application for licensure or registration is denied under this article shall notify his or her employer and each hospital in which he or she is admitted to practice, in the same manner as provided for notice of revocation or suspension under subsection (5), within 10 days after the date of the final order imposing the sanction.

(7) The department of commerce shall annually report to the legislature and to each board and task force on disciplinary actions taken under this article and article 7. The report shall contain, at a minimum, all of the following information:

(a) Investigations conducted, complaints issued, and settlements reached by the department of commerce, separated out by type of complaint and health profession.

(b) Investigations and complaints closed or dismissed.

(c) Actions taken by each disciplinary subcommittee, separated out by type of complaint, health profession, and final order issued.

(d) Recommendations by boards and task forces.

(e) The number of extensions and delays granted by the department that were in excess of the time limits required under this article for each phase of the disciplinary process, and the types of cases for which the extensions and delays were granted.

(8) Within 2 years after the effective date of the amendatory act that added this subsection, the department of commerce shall submit a public report to the legislature on the effectiveness of the amendatory act that added this subsection. The report shall include a review and evaluation of the disciplinary process and the reporting requirements of this article and article 17 and recommended administrative or statutory changes, if any.

Sec. 16243. (1) The department or a disciplinary subcommittee appointed under section 16216 may request and shall receive the following reports:

(a) Information from a licensed health care facility as to disciplinary action taken by it pursuant to section 20175.

(b) Information from an insurer providing professional liability insurance as to claims or actions for damages against a licensee; settlements in any amount; final disposition not resulting in payment on behalf of the insured; and a personal injury claimed to have been caused by an error, omission, or negligence in the performance of the insured professional services. An insurer that receives a request under this subdivision shall submit the information requested directly to the department.

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

(d) A report by a licensee or registrant under section 16222.

(e) Information provided by the insurance bureau under sections 2477, 2477b, and 2477c of the insurance code, Act No. 218 of the Public Acts of 1956, being sections 500.2477, 500.2477b, and 500.2477c of the Michigan Compiled Laws, information provided by the national practitioner data bank, and reports from the Michigan health care arbitration program.

(f) Reports from any other appropriate source necessary for determination of the competency and safety of the practice of a licensee. Appropriate sources include, but are not limited to, appointed public and private professional review entities and public and private health insurance programs.

(2) Within 10 days after the entry of a judgment against a licensee finding the licensee negligent in an action for malpractice or the approval by a court of a settlement in an action for malpractice, the clerk of the court in which the judgment was entered or the settlement approved shall prepare and immediately forward to the department on a form prescribed by the department a report setting forth the name of the licensee and the amount of damages awarded or the amount of the approved settlement.

Sec. 16244. (1) A person, including a state or county health professional organization, a committee of the organization, or an employee or officer of the organization furnishing information to, or on behalf of, the organization, acting in good faith who makes a report; assists in originating, investigating, or preparing a report; or assists a board or task force, a disciplinary subcommittee, a hearings examiner, the committee, or the department in carrying out its duties under this article is immune from civil or criminal liability including, but not limited to, liability in a civil action for damages that might otherwise be incurred thereby and is protected under the whistleblowers' protection act, Act No. 469 of the Public Acts of 1980, being sections 15.361 to 15.369 of the Michigan Compiled Laws. A person making or assisting in making a report, or assisting a board or task force 2221, a hearings examiner, the committee, or the department, is presumed to have acted in good faith. The immunity from civil or criminal liability granted under this subsection extends only to acts done pursuant to this article or section 21513(e).

(2) The physician-patient privilege created in section 2157 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2157 of the Michigan Compiled Laws, does not apply in an investigation or proceeding by a board or task force, a disciplinary subcommittee, a hearings examiner, the committee, or the department acting within the scope of its authorization. Unless expressly waived by the individual to whom the information pertains, the information obtained is confidential and shall not be disclosed except to the extent necessary for the proper functioning of a board or task force, a disciplinary subcommittee, the committee, or the department. Except as otherwise provided in this subsection, a person shall not use or disseminate the information except pursuant to a valid court order.

Sec. 16245. (1) An individual whose license is limited, suspended, or revoked under this part may apply to his or her board or task force for a reinstatement of a revoked or suspended license or reclassification of a limited license pursuant to section 16247 or 16249.

(2) An individual whose registration is suspended or revoked under this part may apply to his or her board for a reinstatement of a suspended or revoked registration pursuant to section 16248.

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

(4) Except as otherwise provided in this subsection, in case of a revoked license or registration, an applicant shall not apply for reinstatement before the expiration of 3 years after the effective date of the revocation. In case of a license or registration that was revoked for a violation of section 16221(b)(vi), a violation of section 16221(c)(iv) consisting of a felony conviction, or any other felony conviction involving a controlled substance, 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 applicable time period.

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

(6) Based upon the recommendation of the disciplinary subcommittee for each health profession, the department shall promulgate rules to establish specific criteria to be met by an applicant for reinstatement under this article or article 7. The criteria may include guidelines for requiring corrective measures or remedial education as a condition of reinstatement.

(7) An individual who seeks reinstatement or reclassification of a license or registration pursuant to this section shall pay the application processing fee as a reinstatement or reclassification fee. If approved for reinstatement or reclassification, the individual shall pay the per year license or registration fee for the applicable license or registration period.

Sec. 16247. (1) A board or task force may reinstate a license or issue a limited license to an individual whose license has been suspended or revoked under this part if after a hearing the board or task force is satisfied by clear and convincing evidence that the applicant is of good moral character, is able to practice the profession with reasonable skill and safety to patients, has met the criteria in the rules promulgated under section 16245(6), and should be permitted in the public interest to resume practice. Pursuant to the rules promulgated under section 16245(6), as a condition of reinstatement, a disciplinary subcommittee, upon the recommendation of a board or task force, may impose a disciplinary or corrective measure authorized under this part and require that the licensee attend a school or program selected by the board or task force to take designated courses or training to become competent or proficient in those areas of practice in which the board or task force finds the licensee to be deficient. The board or task force may require a statement on a form approved by it from the chief administrator of the school or program attended or the person responsible for the training certifying that the licensee has achieved the required competency or proficiency.

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

(3) A board or task force shall not reinstate a license suspended or revoked for grounds stated in section 16221(b)(i), (iii), or (iv) until it finds that the licensee is mentally or physically able to practice with reasonable skill and safety to patients. The board or task force may require further examination of the licensee, at the licensee's expense, necessary to verify that the licensee is mentally or physically able. A licensee affected by this section shall be afforded the opportunity at reasonable intervals to demonstrate that he or she can resume competent practice in accordance with standards of acceptable and prevailing practice.

Sec. 16248. A registration board may reinstate a registration revoked or suspended under this part if, after a hearing, the board is satisfied by clear and convincing evidence that the individual is of good moral character, has the education and experience as required in this article, has met the criteria in the rules promulgated under section 16245(6), and will use the title lawfully and act in accordance with this article.

Sec. 16249. A disciplinary subcommittee may reclassify a license limited under this part to alter or remove the limitations if, after a hearing, it is satisfied that the applicant will practice the profession safely and competently within the area of practice and under conditions stipulated by the disciplinary subcommittee, and should be permitted in the public interest to so practice. The disciplinary subcommittee may require the submission of information necessary to make the determination required for reclassification. As a condition of reclassification, the disciplinary subcommittee may require that the licensee take an examination or attend a school or program selected by the disciplinary subcommittee to take designated courses or training to become competent in those areas of practice the disciplinary subcommittee determines necessary for reclassification. The disciplinary subcommittee may require a statement on a form approved by it from the chief administrator of the school or program attended or the person responsible for the training certifying that the licensee has achieved the required competency.

Sec. 16291. (1) Upon a violation of this article or of a rule or order of a board or task force, a disciplinary subcommittee, or the department, the circuit court for the county in which the violation occurs may restrain and enjoin a person from the violation. A board or task force, a disciplinary subcommittee, or the department shall seek injunctive relief through the attorney general or the prosecuting attorney of the county in which the violation occurs. This proceeding may be in addition to and is not in lieu of a criminal prosecution or proceeding as to a license or registration.

(2) The department, a board or task force, or a disciplinary subcommittee, may request the attorney general or prosecuting attorney to prosecute a person violating this article. The attorney general or the prosecuting attorney may prosecute a violation of this article.

Sec. 16294. Except as provided in section 16215, an individual who practices or holds himself or herself out as practicing a health profession regulated by this article without a license or registration or under a suspended, revoked, lapsed, void, or fraudulently obtained license or registration, or outside the provisions of a limited license or registration, or who uses as his or her own the license or registration of another person, is guilty of a felony.

Sec. 16301. (1) Fees for licenses and registrations issued and other services performed by the department shall be as prescribed in this article.

(2) This article does not prohibit a person who has a contract with the department or any other person providing direct services from collecting fees directly from an applicant, registrant, or licensee.

(3) If the department terminates a contract with a person who has been administering a licensing or registration examination to applicants for licensure or registration in a specific profession and the department itself begins to administer the examination, the department shall not charge an applicant a fee greater than the fee charged under the terminated contract unless the examination fee for that profession is increased under this article.

Sec. 16337. Fees for a person licensed or seeking licensure to engage in practice as a physician's assistant under either part 170 or part 175 are as follows:

(a) Application processing fee	\$ 30.00
(b) License fee, per year	50.00
(c) Temporary license	35.00
(d) Limited license, per year	25.00

Sec. 16339. Fees for a person licensed or seeking licensure to engage in the practice of podiatric medicine and surgery under part 180 are as follows:

(a) Application processing fee	\$ 20.00
(b) License fee, per year	90.00
(c) Temporary license	15.00
(d) Limited license, per year	25.00

Sec. 16341. Fees for a person licensed or seeking licensure to engage in the practice of counseling under part 181 are as follows:

(a) Application processing fee	\$ 50.00
(b) Examination fee.....	100.00
(c) License fee, per year.....	55.00
(d) Limited license fee, per year.....	25.00

Sec. 16343. Fees for a person licensed or seeking licensure to engage in the practice of psychology under part 182 are as follows:

(a) Application processing fee	\$ 50.00
(b) License fee, per year:	
(i) Full doctoral	90.00
(ii) Limited doctoral.....	30.00
(iii) Masters limited	60.00
(iv) Temporary limited	15.00
(c) Limited license, per year.....	40.00
(d) Temporary license.....	15.00
(e) Examination review fee	20.00

Sec. 16345. Fees for a person registered or seeking registration as a certified occupational therapist or a certified occupational therapist assistant under part 183 are as follows:

(a) Application processing fee	\$ 20.00
(b) Registration fee, per year.....	60.00

Sec. 16347. Fees for a person registered or seeking registration as a registered sanitarian under part 184 are as follows:

(a) Application processing fee	\$ 20.00
(b) Registration fee, per year.....	50.00
(c) Limited registration, per year.....	10.00
(d) Temporary registration.....	15.00

Sec. 16349. Fees for a person licensed or seeking licensure to engage in the practice of veterinary medicine or licensed or seeking licensure to practice as a veterinary technician under part 188 are as follows:

(a) Application processing fees:	
(i) Veterinarian	\$ 20.00
(ii) Veterinary technician.....	10.00
(b) Examination fees:	
(i) Veterinary technician, complete.....	130.00
(ii) Veterinary technician, per part.....	65.00
(c) License fees, per year:	
(i) Veterinarian	50.00
(ii) Veterinary technician.....	20.00
(d) Temporary license fees:	
(i) Veterinarian	25.00
(ii) Veterinary technician.....	10.00
(e) Limited licenses, per year:	
(i) Veterinarian	25.00
(ii) Veterinary technician.....	10.00
(f) Examination review.....	20.00

Sec. 16421. The Michigan board of chiropractic is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 chiropractors and 4 public members.

Sec. 16648. (1) Information relative to the care and treatment of a dental patient acquired as a result of providing professional dental services shall be confidential and privileged. Except with the written consent of the patient or the patient's attorney in fact or personal representative, a dentist or a person employed by the dentist shall not disclose or be required to disclose that information.

(2) This section does not prohibit disclosure of the information described in subsection (1) in the following instances:

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

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

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

(d) Disclosure to a third party payer of information relating to fees for services in the course of a good faith examination of the dentist's records to determine the amount and correctness of fees or the type and volume of services furnished pursuant to provisions for payment established by a third party payer, or information required for a third party payer's predeterminations, post treatment reviews, or audits. For purposes of this subdivision, "third party payer" includes a nonprofit dental care corporation, nonprofit health care corporation, insurer, benefit fund, health maintenance organization, and a dental capitation plan.

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

(f) Disclosure as provided in section 2844a.

(g) Disclosure made pursuant to section 16222 if the licensee reasonably believes it is necessary to disclose the information to comply with section 16222.

Sec. 17011. (1) An individual shall not engage in the practice of medicine or practice as a physician's assistant unless licensed or otherwise authorized by this article. An individual shall not engage in teaching or research that requires the practice of medicine unless the individual is licensed or otherwise authorized by this article.

(2) Notwithstanding section 16145 or rules promulgated pursuant to that section, the board may grant a license to an individual who meets the requirements of section 16186 or 17031(2) after reviewing the applicant's record of practice, experience, and credentials and determining that the applicant is competent to practice medicine.

(3) For individuals applying for licensure under section 16186, the board shall not impose requirements on graduates of medical schools located outside the United States or Canada that exceed the requirements imposed on graduates of medical schools located in the United States or Canada.

Sec. 17021. (1) The Michigan board of medicine is created in the department and shall consist of the following 19 voting members who shall meet the requirements of part 161: 10 physicians, 1 physician's assistant, and 8 public members.

(2) The requirement of section 16135(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived until September 30, 1980 for members of the board licensed in a health profession subfield created by this part.

(3) The board of medicine shall not have the powers and duties vested in the task force by sections 17060 to 17084.

Sec. 17221. The Michigan board of nursing is created in the department and shall consist of the following 23 voting members who shall meet the requirements of part 161: 9 registered professional nurses, 1 nurse midwife, 1 nurse anesthetist, 1 nurse practitioner, 3 licensed practical nurses, and 8 public members. Three of the registered professional nurse members shall be engaged in nursing education, 1 of whom shall be in less than a baccalaureate program, 1 in a baccalaureate or higher program and 1 in a licensed practical nurse program and each of whom shall have a master's degree from an accredited college with a major in nursing. Three of the registered professional nurse members shall be engaged in nursing practice or nursing administration, each of whom shall have a baccalaureate degree in nursing from an accredited college. Three of the registered professional nurse members shall be engaged in nursing practice or nursing administration, each of whom shall be a nonbaccalaureate registered nurse. The 3 licensed practical nurse members shall have graduated from a state approved program for the preparation of individuals to practice as licensed practical nurses. The nurse midwife, the nurse anesthetist, and the nurse practitioner shall each have a specialty certification issued by the department in his or her respective specialty field.

Sec. 17412. (1) Subject to subsection (2), a licensee may administer a topical ocular diagnostic pharmaceutical agent to the anterior segment of the human eye during an eye examination in the course of his or her practice solely for the purposes of determining the refractive, muscular, or functional origin of sources of visual discomfort or difficulty and detecting abnormalities which may be evidence of disease if the licensee is certified by the Michigan board of optometry as being qualified to administer topical ocular diagnostic pharmaceutical agents pursuant to this section.

(2) The topical anesthetic described in section 17401(1)(c)(i) shall be utilized only in diagnostic procedures that aid in detecting glaucoma.

(3) The Michigan board of optometry shall certify a licensee as qualified to administer topical ocular diagnostic pharmaceutical agents if the licensee meets all of the following requirements:

(a) Has successfully completed 60 classroom hours of study in general and clinical pharmacology as it relates to the practice of optometry, with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents for examination purposes. Not less than 30 of the 60 classroom hours shall be in ocular pharmacology and shall emphasize the systemic effects of and reactions to topical ocular diagnostic pharmaceutical agents, including the emergency management and referral of any adverse reactions that may occur. The course of study shall be approved by the Michigan board of optometry, and shall be offered by a school or college of optometry that is recognized by the Michigan board of optometry as fully accredited. The course of study shall be completed before taking the examination required by this section.

(b) Has successfully completed an examination approved by the Michigan board of optometry on the subject of general and ocular pharmacology as it relates to the practice of optometry with particular emphasis on the use of topical ocular diagnostic pharmaceutical agents, including emergency management and referral of any adverse reactions that may occur.

(c) Has successfully completed a course in cardiopulmonary resuscitation offered or approved by the red cross, American heart association, an accredited hospital, or a comparable organization or institution.

(d) Has established an emergency plan for the management and referral to appropriate medical services of patients who may experience adverse drug reactions resulting from the application of topical ocular diagnostic pharmaceutical agents. The plan shall be approved by the Michigan board of optometry and shall, at a minimum, require the optometrist to do all of the following:

(i) Refer patients who notify the optometrist of an adverse drug reaction to appropriate medical specialists or facilities.

(ii) Routinely advise each patient to immediately contact the optometrist if the patient experiences an adverse drug reaction.

(iii) Place in the patient's permanent record information describing any adverse drug reaction experienced by the patient, and the date and time that any referral was made.

(iv) Include in the plan the names of not less than 3 physicians, physician clinics, or hospitals to whom the optometrist will refer patients who experience an adverse drug reaction. At least 1 of the physicians, physician clinics, or hospitals shall be skilled or shall specialize in the diagnosis and treatment of diseases of the eye. As used in this subparagraph, "physician" means a physician as defined in section 17001 or 17501.

(4) The course of study and examination required by subsection (3)(a) and (b) shall be completed before certification except that the Michigan board of optometry may certify applicants who have graduated from a school of optometry recognized by the Michigan board of optometry as accredited within the 5 years immediately preceding April 12, 1984, if the school's curriculum includes a course of study and examination meeting the requirements of subsection (3)(a) and (b).

(5) Approvals of the course of study, examination, and emergency plan required by subsection (3)(a), (b), and (d) shall be given by the Michigan board of optometry only after consultation with the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, and the Michigan board of pharmacy. The recommendations of the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, and the Michigan board of pharmacy shall be made within 120 days after they are requested by the Michigan board of optometry.

(6) An optometrist shall not purchase, possess, administer, prescribe, or give any prescription drug as defined in section 17708 or a topical ocular diagnostic pharmaceutical agent except as expressly authorized by this section.

Sec. 17421. The Michigan board of optometry is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 optometrists and 4 public members.

Sec. 17521. (1) The Michigan board of osteopathic medicine and surgery is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 physicians, 1 physician's assistant, and 3 public members.

(2) The requirement of section 16135(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived until September 30, 1980 for members of the board who are licensed in a health profession subfield created by this part. powers and duties vested in the task force by sections 17060 to 17084.

Sec. 17721. The Michigan board of pharmacy is created in the department and shall consist of the following 11 voting members who shall meet the requirements of part 161: 6 pharmacists and 5 public members.

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

(2) A drug control license is valid until the date on which the dispensing prescriber's professional license must be renewed, at which time the drug control license shall be renewed. The drug control license shall be renewed automatically, if both of the following conditions are met:

(a) The dispensing prescriber indicates that he or she dispenses drugs and desires to continue to do so.

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

(3) A dispensing prescriber whose drug control license is renewed pursuant to subsection (2) is subject to section 16226 and the other requirements of this article and article 7.

(4) A drug control license is automatically void if a board suspends or revokes the licensee's health professional license.

Sec. 17763. In addition to the grounds set forth in part 161, the disciplinary subcommittee may fine, reprimand, or place a pharmacist licensee on probation, or deny, limit, suspend, or revoke the license of a pharmacist or order restitution or community service for a violation or abetting in a violation of this part or rules promulgated under this part, or for any of the following grounds:

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

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

(c) Permitting the dispensing of prescriptions by an individual who is not a pharmacist, pharmacist intern, or dispensing prescriber.

(d) Permitting the dispensing of prescriptions by a pharmacist intern, except in the presence and under the personal charge of a pharmacist.

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

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

Sec. 17767. The board may promulgate rules and make determinations necessary or appropriate to the licensing of pharmacists, drugs, dispensers, manufacturers, and wholesalers under this part.

Sec. 17768. (1) In a manner consistent with part 161, the disciplinary subcommittee may fine, reprimand, or place on probation, a person licensed under this part, or deny, limit, suspend, or revoke a person's license or order restitution or community service for a violation of this part or rules promulgated under this part.

(2) In addition to the grounds set forth in subsection (1), and in a manner consistent with part 161, the board may fine, reprimand, or place on probation a person licensed under this part, or deny, limit, suspend, or revoke a license issued under this part or order restitution or community service if the board finds that any of the following categories apply to an applicant or a partner, officer, or member of the board of directors of a pharmacy, manufacturer, or wholesale distributor licensed under this part or a stockholder of a pharmacy, manufacturer, or wholesale distributor which is a privately held corporation licensed under this part:

(a) The applicant or other person described in this subsection lacks good moral character.

(b) Subject to subsection (3), the applicant or other person described in this subsection has been convicted of a misdemeanor or a felony under a state or federal law relating to a controlled substance or the practice of pharmacy.

(c) The applicant or other person described in this subsection has furnished false or fraudulent material information or has knowingly omitted material information in an application filed under this part.

(d) The applicant or other person described in this subsection has previously maintained a financial interest in a pharmacy, manufacturer, or wholesale distributor which has been denied a license or federal registration, has had its license or federal registration limited, suspended, or revoked, or been subject to any other criminal, civil, or administrative penalty.

(e) The applicant or other person described in this subsection is not in compliance with article 7 or the rules promulgated under article 7.

(3) Except for a conviction for a misdemeanor under section 7404(2)(d) or a local ordinance that is substantially similar to section 7404(2)(d), the reference to a misdemeanor in subsection (2)(b) 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 (2)(b) does not apply to a conviction for a misdemeanor based upon an unintentional error or omission involving a clerical or record-keeping function.

Sec. 17821. The Michigan board of physical therapy is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 physical therapists and 4 public members.

Sec. 18021. The Michigan board of podiatric medicine and surgery is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 podiatrists and 4 public members.

Sec. 18103. The Michigan board of counseling is created in the department. The board shall consist of the following 11 voting members who shall meet the requirements of part 161:

(a) Six members of the board shall be engaged in the practice of counseling and shall consist of: 3 members who are engaged primarily in providing counseling techniques, behavior modification techniques, or preventive techniques to clients; 2 members who are engaged primarily in teaching, training, or research in counseling; and 1 member who is engaged primarily in the administration of counseling services.

(b) Four members of the general public.

(c) One member who is a statutorily regulated mental health professional. As used in this subdivision, "statutorily regulated mental health professional" means any of the following: a psychiatrist, psychologist, substance abuse counselor, marriage and family therapist, or social worker.

Sec. 18117. For the purposes of this part, the confidential relations and communications between a licensed professional counselor or a limited licensed counselor and a client of the licensed professional counselor or a limited licensed counselor are privileged communications, and nothing in this part requires any privileged communication to be disclosed, except as otherwise provided by law. Confidential information may be disclosed only upon consent of the client or pursuant to section 16222 if the licensee reasonably believes it is necessary to disclose the information to comply with section 16222.

Sec. 18221. The Michigan board of psychology is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 psychologists, including at least 1 nondoctoral psychologist, and 4 public members. Section 1212 does not apply to this board.

Sec. 18237. A psychologist licensed or allowed to use the title under this part or an individual under his or her supervision shall not be compelled to disclose confidential information acquired from an individual consulting the psychologist in his or her professional capacity and which information is necessary to enable the psychologist to render services. Information may be disclosed with the consent of the individual consulting, or if the individual consulting is a minor, with the consent of the minor's guardian, or pursuant to section 16222 if the psychologist reasonably believes it is necessary to disclose the information to comply with section 16222. In a contest on the admission of a deceased individual's will to probate, an heir at law of the decedent, whether a proponent or contestant of the will, and the personal representative of the decedent may waive the privilege created by this section.

Sec. 18305. The Michigan board of occupational therapists is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 certified occupational therapists and 4 public members.

Sec. 18421. The Michigan board of sanitarians is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 registered sanitarians and 4 public members.

Sec. 18821. (1) The Michigan board of veterinary medicine is created in the department and shall consist of the following 9 members who shall meet the requirements of part 161: 5 veterinarians, 1 veterinary technician, and 3 public members. The chief of the animal health division of the department of agriculture is an ex officio member without vote.

(2) The requirement of section 16135(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived until September 30, 1980 for members of the board who are licensed in a health profession subfield created by this part.

Sec. 18835. In addition to the grounds set forth in part 161, the disciplinary subcommittee may fine, reprimand, or place a licensee on probation, or deny, limit, suspend, or revoke the license of a veterinarian for fraudulent use or misuse of a health certificate, inspection certificate, vaccination certificate, test chart, meat inspection stamp, or other blank form used in the practice of veterinary medicine that might lead to the dissemination of disease, unlawful transportation of diseased animals, or the sale of inedible products of animal origin for human consumption.

Sec. 20175. (1) A health facility or agency shall keep and maintain a record for each patient including a full and complete record of tests and examinations performed, observations made, treatments provided, and in the case of a hospital, the purpose of hospitalization. In addition to the sanctions set forth in section 20165, a hospital that fails to comply with this subsection is subject to an administrative fine of \$10,000.00.

(2) A hospital shall take precautions to assure that the records required by subsection (1) are not wrongfully altered or destroyed. A hospital that fails to comply with this subsection is subject to an administrative fine of \$10,000.00.

(3) Unless otherwise provided by law, the licensing and certification records required by this article are public records.

(4) Departmental officers and employees shall respect the confidentiality of patient clinical records and shall not divulge or disclose the contents of records in a manner that identifies an individual except pursuant to court order.

(5) A health facility or agency that employs, contracts with, or grants privileges to a health professional licensed or registered under article 15 shall report the following to the department of commerce not more than 30 days after it occurs:

(a) Disciplinary action taken by the health facility or agency against a health professional licensed or registered under article 15 based on the licensee's or registrant's professional competence, disciplinary action that results in a change of employment status, or disciplinary action based on conduct that adversely affects the licensee's or registrant's clinical privileges for a period of more than 15 days. As used in this subdivision, "adversely affects" means the reduction, restriction, suspension, revocation, denial, or failure to renew the clinical privileges of a licensee or registrant by a health facility or agency.

(b) Restriction or acceptance of the surrender of the clinical privileges of a licensee or registrant under either of the following circumstances:

(i) The licensee or registrant is under investigation by the health facility or agency.

(ii) There is an agreement in which the health facility or agency agrees not to conduct an investigation into the licensee's or registrant's alleged professional incompetence or improper professional conduct.

(c) A case in which a health professional resigns or terminates a contract or whose contract is not renewed instead of the health facility taking disciplinary action against the health professional.

(6) Upon request by another health facility or agency seeking a reference for purposes of changing or granting staff privileges, credentials, or employment, a health facility or agency that employs, contracts with, or grants privileges to health professionals licensed or registered under article 15 shall notify the requesting health facility or agency of any disciplinary or other action reportable under subsection (5) that it has taken against a health professional licensed or registered under article 15 and employed by, under contract to, or granted privileges by the health facility or agency.

(7) For the purpose of reporting disciplinary actions pursuant to this section, a health facility or agency shall include only the following in the information provided:

(a) The name of the licensee or registrant against whom disciplinary action has been taken.

(b) A description of the disciplinary action taken.

(c) The specific grounds for the disciplinary action taken.

(d) The date of the incident that is the basis for the disciplinary action.

(8) The records, data, and knowledge collected for or by individuals or committees assigned a professional review function in a health facility or agency are confidential, shall be used only for the purposes provided in this article, are not public records, and are not subject to court subpoena.

Sec. 20176a. (1) A health facility or agency shall not discharge or discipline, threaten to discharge or discipline, or otherwise discriminate against an employee regarding the employee's compensation, terms, conditions, location, or privileges of employment because the employee or an individual acting on behalf of the employee does either or both of the following:

(a) In good faith reports or intends to report, verbally or in writing, the malpractice of a health professional or a violation of article 7 or article 15 or a rule promulgated under article 7 or article 15.

(b) Acts as an expert witness in a civil action involving medical malpractice or in an administrative action.

(2) In addition to the sanctions set forth in section 20165, a health facility or agency that violates subsection (1) is subject to an administrative fine of not more than \$10,000.00 for each violation.

Sec. 20194. A health facility or agency, except a health facility or agency licensed under part 209, and including a health facility that is not licensed under this article but holds itself out as providing medical services, shall conspicuously display in the patient waiting areas or other common areas of the health facility or agency copies of a pamphlet provided by the department of public health outlining the procedure for filing a complaint against a health facility or agency with the department of public health and the procedure for filing a complaint with the department of commerce against a person who is licensed or registered under article 15 employed by, under contract to, or granted privileges by the health facility or agency. The pamphlet shall be prepared by the department of public health in consultation with the department of commerce and appropriate professional associations. The department of public health shall print the pamphlets in languages that are appropriate to the ethnic composition of the patient population where the pamphlet will be displayed.

Sec. 21006. "Insurance bureau" means the unit in the department of commerce headed by the commissioner of insurance.

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

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

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

(c) Shall assure that physicians and dentists admitted to practice in the hospital are granted hospital privileges consistent with their individual training, experience, and other qualifications.

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

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

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

Section 2. Sections 16123, 16134, 16151, 16152, 16154, 16155, 16156, 16183, 17058, 17086, and 17088 of Act No. 368 of the Public Acts of 1978, being sections 333.16123, 333.16134, 333.16151, 333.16152, 333.16154, 333.16155, 333.16156, 333.16183, 333.17058, 333.17086, and 333.17088 of the Michigan Compiled Laws, are repealed.

Section 3. 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. 4076.

(b) House Bill No. 4077.

(c) House Bill No. 4078.

(d) House Bill No. 4080.

(e) House Bill No. 4289.

(f) House Bill No. 4290.

(g) House Bill No. 4292.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.