



HOUSE BILL No. 4491

March 11, 1993, Introduced by Reps. Bennane, Rivers, Baade, Wallace, Dobronski, Points, Kilpatrick, Pitoniak, Scott, Schroer, Murphy, Stallworth, DeMars, Gubow, Jondahl, Gire and Richard A. Young and referred to the Committee on Public Health.

A bill to amend sections 16221 and 16226 of Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code," as amended by Act No. 15 of the Public Acts of 1989, being sections 333.16221 and 333.16226 of the Michigan Compiled Laws; and to add sections 16441, 16612, 17017, 17517, 18013, and 20176a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 16221 and 16226 of Act No. 368 of the
2 Public Acts of 1978, as amended by Act No. 15 of the Public Acts
3 of 1989, being sections 333.16221 and 333.16226 of the Michigan
4 Compiled Laws, are amended and sections 16441, 16612, 17017,
5 17517, 18013, and 20176a are added to read as follows:

1 Sec. 16221. The department may investigate activities
2 related to the practice of a health profession by a licensee, a
3 registrant, or an applicant for licensure or registration. The
4 department may hold hearings, administer oaths, and order rele-
5 vant testimony to be taken and shall report its findings to the
6 appropriate board or appropriate task force. ~~The~~ A board shall
7 proceed under section 16226 if the board finds that any of the
8 following grounds exist:

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

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

17 (i) Incompetence.

18 (ii) Substance abuse as defined in section 6107.

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

22 (iv) Declaration of mental incompetence by a court of compe-
23 tent jurisdiction.

24 (v) Conviction of a misdemeanor or felony reasonably related
25 to and adversely affecting the licensee's ability to practice in
26 a safe and competent manner. A certified copy of the court
27 record ~~shall be~~ IS conclusive evidence of the conviction.

1 (vi) Lack of good moral character.

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

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

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

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

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

19 (ii) Permitting the license to be used by an unauthorized
20 person.

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

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

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

3 (i) False or misleading advertising.

4 (ii) Dividing fees for referral of patients or accepting
5 kickbacks on medical or surgical services, appliances, or medica-
6 tions purchased by or ~~in~~ ON behalf of patients.

7 (iii) Fraud or deceit in obtaining or attempting to obtain
8 third party reimbursement.

9 (e) Unprofessional conduct, consisting of any of the
10 following:

11 (i) Misrepresentation to a consumer or patient or in obtain-
12 ing or attempting to obtain third party reimbursement in the
13 course of professional practice.

14 (ii) Betrayal of a professional confidence.

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

17 (iv) Directing or requiring an individual to purchase or
18 secure a drug, device, treatment, procedure, or service from
19 another person, place, facility, or business in which the
20 licensee has a financial interest.

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

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

25 (h) Failure to comply with a subpoena issued pursuant to
26 this part.

(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) A VIOLATION OF SECTION 16441, 16612, 17017, 17517, OR 18013.

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

Violations of Section 16221

Sanctions

Subdivision (a),

Probation, limitation, denial,

(b)(ii),

suspension, revocation,

(b)(iv),

restitution, or fine.

(b)(vi), or

(b)(vii)

Subdivision (b)(viii)

Revocation.

Subdivision (b)(i),

Limitation, suspension,

(b)(iii),

revocation, denial,

(b)(v), or (b)(ix)

probation, restitution, or

fine.

Subdivision (c)(i)

Denial, revocation, suspension,

probation, limitation, or

fine.

1 Subdivision (c)(ii)	Denial, suspension, revocation,
2	restitution, or fine.
3 Subdivision (c)(iii)	Probation, denial, suspension,
4	revocation, restitution, or
5	fine.
6 Subdivision (c)(iv)	Fine, probation, denial,
7 or (d)(iii)	suspension, revocation,
8	or restitution.
9 Subdivision (d)(i)	Reprimand, fine, probation,
10 or (d)(ii)	or restitution.
11 Subdivision (e)(i)	Reprimand, fine, probation,
12	limitation, suspension, or
13	restitution.
14 Subdivision (e)(ii)	Reprimand, probation,
15 or (h)	suspension, restitution, or
16	fine.
17 Subdivision (e)(iii)	Reprimand, fine, probation,
18 or (e)(iv)	suspension, revocation, limita-
19	tion, or restitution.
20 Subdivision (f)	Reprimand or fine.
21 Subdivision (g) OR (K)	Reprimand, probation, denial,
22	suspension, revocation, limita-
23	tion, restitution, or fine.
24 Subdivision (i)	Suspension or fine.
25 Subdivision (j)	Reprimand or fine.
26 (2) Determination of sanctions for violations under THIS	
27 section 16226 shall be made by a board. If, during judicial	

1 review, a court holds that a sanction is unlawful under section
2 106 of the administrative procedures act of 1969, Act No. 306 of
3 the Public Acts of 1969, being section 24.306 of the Michigan
4 Compiled Laws, the court shall state on the record the reasons
5 for the holding and may remand the case to the board for further
6 consideration.

7 (3) A board created under part 170 or 175 may impose a fine
8 of up to, but not exceeding, \$250,000.00 for a violation of
9 section 16221(a) or (b).

10 SEC. 16441. (1) WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF
11 THIS SECTION, EACH LICENSEE LICENSED ON OR BEFORE THE EFFECTIVE
12 DATE OF THIS SECTION SHALL OBTAIN PROFESSIONAL LIABILITY INSUR-
13 ANCE COVERAGE WITH LIMITS OF NOT LESS THAN \$200,000.00 PER CLAIM
14 AND NOT LESS THAN \$600,000.00 IN THE AGGREGATE AND FILE WITH THE
15 BOARD EVIDENCE OF THAT COVERAGE THAT IS ACCEPTABLE TO THE BOARD.
16 WITHIN 180 DAYS AFTER THE ISSUANCE OF HIS OR HER LICENSE, A
17 LICENSEE LICENSED AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL
18 OBTAIN PROFESSIONAL LIABILITY INSURANCE COVERAGE WITH LIMITS OF
19 NOT LESS THAN \$200,000.00 PER CLAIM AND NOT LESS THAN \$600,000.00
20 IN THE AGGREGATE AND FILE WITH THE BOARD EVIDENCE OF THAT COVER-
21 AGE THAT IS ACCEPTABLE TO THE BOARD. AFTER THE INITIAL FILING,
22 EACH LICENSEE ANNUALLY SHALL FILE WITH THE BOARD THE EVIDENCE OF
23 PROFESSIONAL LIABILITY INSURANCE COVERAGE REQUIRED UNDER THIS
24 SUBSECTION.

25 (2) A LICENSEE SHALL MAINTAIN THE PROFESSIONAL LIABILITY
26 INSURANCE COVERAGE REQUIRED UNDER SUBSECTION (1) IN EFFECT AT ALL
27 TIMES. IF THERE IS A PAYOUT UNDER THE PROFESSIONAL LIABILITY

1 INSURANCE COVERAGE REQUIRED UNDER SUBSECTION (1), THE LICENSEE
2 IMMEDIATELY SHALL REPLACE OR RENEW THE PROFESSIONAL LIABILITY
3 INSURANCE COVERAGE AND NOTIFY THE BOARD IN WRITING OF THE
4 REPLACEMENT OR RENEWAL.

5 SEC. 16612. (1) WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF
6 THIS SECTION, EACH DENTIST LICENSED ON OR BEFORE THE EFFECTIVE
7 DATE OF THIS SECTION SHALL OBTAIN PROFESSIONAL LIABILITY INSUR-
8 ANCE COVERAGE WITH LIMITS OF NOT LESS THAN \$200,000.00 PER CLAIM
9 AND NOT LESS THAN \$600,000.00 IN THE AGGREGATE AND FILE WITH THE
10 BOARD EVIDENCE OF THAT COVERAGE THAT IS ACCEPTABLE TO THE BOARD.
11 WITHIN 180 DAYS AFTER THE ISSUANCE OF HIS OR HER LICENSE, A DEN-
12 TIST LICENSED AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL
13 OBTAIN PROFESSIONAL LIABILITY INSURANCE COVERAGE WITH LIMITS OF
14 NOT LESS THAN \$200,000.00 PER CLAIM AND NOT LESS THAN \$600,000.00
15 IN THE AGGREGATE AND FILE WITH THE BOARD EVIDENCE OF THAT COVER-
16 AGE THAT IS ACCEPTABLE TO THE BOARD. AFTER THE INITIAL FILING,
17 EACH DENTIST ANNUALLY SHALL FILE WITH THE BOARD THE EVIDENCE OF
18 PROFESSIONAL LIABILITY INSURANCE COVERAGE REQUIRED UNDER THIS
19 SUBSECTION.

20 (2) A DENTIST SHALL MAINTAIN THE PROFESSIONAL LIABILITY
21 INSURANCE COVERAGE REQUIRED UNDER SUBSECTION (1) IN EFFECT AT ALL
22 TIMES. IF THERE IS A PAYOUT UNDER THE PROFESSIONAL LIABILITY
23 INSURANCE COVERAGE REQUIRED UNDER SUBSECTION (1), THE DENTIST
24 IMMEDIATELY SHALL REPLACE OR RENEW THE PROFESSIONAL LIABILITY
25 INSURANCE COVERAGE AND NOTIFY THE BOARD IN WRITING OF THE
26 REPLACEMENT OR RENEWAL.

1 SEC. 17017. -(1) WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF
2 THIS SECTION, EACH PHYSICIAN LICENSED ON OR BEFORE THE EFFECTIVE
3 DATE OF THIS SECTION SHALL OBTAIN PROFESSIONAL LIABILITY INSUR-
4 ANCE COVERAGE WITH LIMITS OF NOT LESS THAN \$200,000.00 PER CLAIM
5 AND NOT LESS THAN \$600,000.00 IN THE AGGREGATE AND FILE WITH THE
6 BOARD EVIDENCE OF THAT COVERAGE THAT IS ACCEPTABLE TO THE BOARD.
7 WITHIN 180 DAYS AFTER THE ISSUANCE OF HIS OR HER LICENSE, A PHY-
8 SICIAN LICENSED AFTER THE EFFECTIVE DATE OF THIS SECTION SHALL
9 OBTAIN PROFESSIONAL LIABILITY INSURANCE COVERAGE WITH LIMITS OF
10 NOT LESS THAN \$200,000.00 PER CLAIM AND NOT LESS THAN \$600,000.00
11 IN THE AGGREGATE AND FILE WITH THE BOARD EVIDENCE OF THAT COVER-
12 AGE THAT IS ACCEPTABLE TO THE BOARD. AFTER THE INITIAL FILING,
13 EACH PHYSICIAN ANNUALLY SHALL FILE WITH THE BOARD THE EVIDENCE OF
14 PROFESSIONAL LIABILITY INSURANCE COVERAGE REQUIRED UNDER THIS
15 SUBSECTION.

16 (2) A PHYSICIAN SHALL MAINTAIN THE PROFESSIONAL LIABILITY
17 INSURANCE COVERAGE REQUIRED UNDER SUBSECTION (1) IN EFFECT AT ALL
18 TIMES. IF THERE IS A PAYOUT UNDER THE PROFESSIONAL LIABILITY
19 INSURANCE COVERAGE REQUIRED UNDER SUBSECTION (1), THE PHYSICIAN
20 IMMEDIATELY SHALL REPLACE OR RENEW THE PROFESSIONAL LIABILITY
21 INSURANCE COVERAGE AND NOTIFY THE BOARD IN WRITING OF THE
22 REPLACEMENT OR RENEWAL.

23 SEC. 17517. (1) WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF
24 THIS SECTION, EACH PHYSICIAN LICENSED ON OR BEFORE THE EFFECTIVE
25 DATE OF THIS SECTION SHALL OBTAIN PROFESSIONAL LIABILITY INSUR-
26 ANCE COVERAGE WITH LIMITS OF NOT LESS THAN \$200,000.00 PER CLAIM
27 AND NOT LESS THAN \$600,000.00 IN THE AGGREGATE AND FILE WITH THE

1 SUBJECT TO AN ADMINISTRATIVE FINE OF NOT MORE THAN \$10,000.00 FOR
2 EACH VIOLATION.