

Act No. 540
Public Acts of 1996
Approved by the Governor
January 12, 1997
Filed with the Secretary of State
January 15, 1997

STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1996

Introduced by Rep. Yokich

ENROLLED HOUSE BILL No. 5477

AN ACT to amend sections 2821, 9201, 9206, 9227, 16221, and 16226 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 provide for the imposition of a regulatory fee; 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 provide for sanctions for violations of this act and local ordinances; 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 16221 and 16226 as amended by Act No. 273 of the Public Acts of 1996, being sections 333.2821, 333.9201, 333.9206, 333.9227, 333.16221, and 333.16226 of the Michigan Compiled Laws; and to add section 9207.

The People of the State of Michigan enact:

Section 1. Sections 2821, 9201, 9206, 9227, 16221, and 16226 of Act No. 368 of the Public Acts of 1978, sections 16221 and 16226 as amended by Act No. 273 of the Public Acts of 1996, being sections 333.2821, 333.9201, 333.9206, 333.9227, 333.16221, and 333.16226 of the Michigan Compiled Laws, are amended and section 9207 is added to read as follows:

Sec. 2821. (1) Birth registration is required for each individual born in this state.

(2) A record of birth for each live birth that occurs in this state shall be filed at the office of the local registrar not more than 5 days after the birth. The birth shall be registered when the filing is completed.

(3) Upon receipt of a vital record consisting of a birth registration transmitted by a local registrar pursuant to section 2815(2), the state registrar shall transmit the information contained in the birth registration to the childhood immunization registry created in section 9207.

Sec. 9201. (1) As used in this part:

(a) "Camping" means attendance at a residential, day, troop, or travel camp conducted for more than 4 school-age children, apart from their parents, guardians, or persons in loco parentis for 5 or more days or parts of days in a 14-day period.

(b) "Immunizing agent" means a vaccine, antibody preparation, or other substance used to increase an individual's immunity to a disease or infectious agent.

(c) "Infectious agent" means that term as defined in R 325.9031 of the Michigan administrative code.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code.

Sec. 9206. (1) The health care provider administering an immunizing agent to a child shall present the person accompanying the child with a written certificate of immunization, or make an entry of the immunization on a certificate in the person's possession. The certificate shall be in a form prescribed by the department and shall indicate the diseases or infections for which the child has been immunized, the number of doses given, the dates when administered, and whether further immunizations are indicated.

(2) Before administering an immunizing agent to a child, a health care provider shall notify the parent, guardian, or person in loco parentis of the child, on a form provided by the department, of the right to object to the reporting requirement of subsection (3).

(3) Unless the parent, guardian, or person in loco parentis of the child who received the immunizing agent objects by written notice received by the health care provider prior to reporting, a health care provider shall report to the department each immunization administered by the health care provider, pursuant to rules promulgated under section 9227. If the parent, guardian, or person in loco parentis of the child who was immunized objects to the reporting requirement of this subsection by written notice received by the health care provider prior to notification, the health care provider shall not report the immunization.

(4) A health care provider who complies or fails to comply in good faith with subsection (3) is not liable in a civil action for damages as a result of an act or omission during the compliance, except an act or omission constituting gross negligence or willful and wanton misconduct.

(5) As used in this section, "health care provider" means a health professional, health facility, or local health department.

Sec. 9207. (1) The department shall establish a registry, to be known as the "childhood immunization registry", to record information regarding immunizations performed under this part. The department shall enter information received under sections 2821 and 9206 in the registry.

(2) The information contained in the childhood immunization registry is subject to the confidentiality and disclosure requirements of this section and sections 2637 and 2888 and to the rules promulgated under section 9227. The department may access the information contained in the childhood immunization registry when necessary to fulfill its duties under this part.

(3) The department shall use the information in the childhood immunization registry only for immunization purposes. The department shall delete information in the childhood immunization registry pertaining to an individual child immediately upon the child reaching the age of 20.

Sec. 9227. The department shall promulgate rules to implement this part, including, but not limited to, rules governing all of the following:

(a) Age periods for immunizations.

(b) The minimum ages at which immunization may be commenced.

(c) The minimum number of doses required during a specified time period.

(d) Minimum levels of immunization for children in school.

(e) Reporting under section 9206(3).

(f) The acquisition, maintenance, and dissemination of information contained in the childhood immunization registry established under section 9207.

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 1 or more 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 1 or more 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 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 1 or more 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 1 or more 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 1 or more 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, 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.

(l) A violation of section 17015 or 17515.

(m) A violation of section 17016 or 17516.

(n) Failure to comply with section 9206(2).

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)(ii), (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.
Subdivision (l) or (n)	Denial, revocation, restitution, probation, suspension, limitation, reprimand, or fine.
Subdivision (m)	Revocation or denial.

(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 1 or more of the grounds listed in section 106 of the administrative procedures act of 1969, being section 24.306 of 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.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.