



# HOUSE BILL No. 5477

December 13, 1995, Introduced by Rep. Yokich and referred to the Committee on Health Policy.

A bill to amend sections 2821, 9201, 9206, 9227, 16221, and 16226 of Act No. 368 of the Public Acts of 1978, entitled as amended  
"Public health code,"  
sections 16221 and 16226 as amended by Act No. 133 of the Public Acts of 1993, 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:**

1 Section 1. Sections 2821, 9201, 9206, 9227, 16221, and  
2 16226 of Act No. 368 of the Public Acts of 1978, sections 16221  
3 and 16226 as amended by Act No. 133 of the Public Acts of 1993,  
4 being sections 333.2821, 333.9201, 333.9206, 333.9227, 333.16221,  
5 and 333.16226 of the Michigan Compiled Laws, are amended and  
6 section 9207 is added to read as follows:

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

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

7       (3) UPON RECEIPT OF A VITAL RECORD CONSISTING OF A BIRTH  
8 REGISTRATION TRANSMITTED BY A LOCAL REGISTRAR PURSUANT TO  
9 SECTION 2815(2), THE STATE REGISTRAR SHALL TRANSMIT THE INFORMA-  
10 TION CONTAINED IN THE BIRTH REGISTRATION TO THE CHILDHOOD IMMUNI-  
11 ZATION REGISTRY CREATED IN SECTION 9207.

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

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

18       (b) "Immunizing agent" means a vaccine, antibody prepara-  
19 tion, or other substance used to increase an individual's immu-  
20 nity to a disease.

21       (c) "INFECTIOUS AGENT" MEANS THAT TERM AS DEFINED IN  
22 R 325.9031 OF THE MICHIGAN ADMINISTRATIVE CODE.

23       (d) "VACCINE" MEANS AN AGENT FOR IMMUNIZATION AGAINST A DIS-  
24 EASE OR INFECTION CAUSED BY AN INFECTIOUS AGENT.

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

1       Sec. 9206. (1) ~~Upon administration of each dose of an~~  
2 ~~immunizing agent to a child, the health professional, the local~~  
3 ~~health department, clinic, or other agency~~ THE HEALTH CARE PRO-  
4 VIDER ADMINISTERING A VACCINE TO A CHILD shall present the person  
5 ~~bringing~~ ACCOMPANYING the child WITH a written certificate OF  
6 VACCINATION, or make an entry ~~thereof~~ OF THE VACCINATION on a  
7 certificate in the person's possession. ~~Certificate~~ THE  
8 CERTIFICATE shall be in a form ~~approved~~ PRESCRIBED by the  
9 department and shall indicate the diseases OR INFECTIONS for  
10 which the child has been immunized, the number of doses given,  
11 the dates when administered, and whether further immunizations  
12 are indicated.

13       (2) A HEALTH CARE PROVIDER SHALL REPORT TO THE DEPARTMENT  
14 EACH VACCINATION ADMINISTERED BY THE HEALTH CARE PROVIDER, PURSU-  
15 ANT TO RULES PROMULGATED UNDER SECTION 9227.

16       SEC. 9207. (1) THE DEPARTMENT SHALL ESTABLISH A REGISTRY,  
17 TO BE KNOWN AS THE "CHILDHOOD IMMUNIZATION REGISTRY", TO RECORD  
18 INFORMATION REGARDING IMMUNIZATIONS PERFORMED UNDER THIS PART.  
19 THE DEPARTMENT SHALL ENTER INFORMATION RECEIVED UNDER  
20 SECTIONS 2821 AND 9206 IN THE REGISTRY.

21       (2) THE INFORMATION CONTAINED IN THE CHILDHOOD IMMUNIZATION  
22 REGISTRY IS SUBJECT TO THE CONFIDENTIALITY AND DISCLOSURE  
23 REQUIREMENTS OF SECTIONS 2637 AND 2888 AND TO THE RULES PROMUL-  
24 GATED UNDER SECTION 9227.

25       Sec. 9227. The department shall promulgate rules to imple-  
26 ment this part, including, ~~specification of the diseases against~~

1 ~~which children shall be immunized, age~~ BUT NOT LIMITED TO, RULES  
2 GOVERNING ALL OF THE FOLLOWING:

3 (A) AGE periods for immunizations. ~~the~~

4 (B) THE minimum ages at which immunization may be  
5 commenced. ~~the~~

6 (C) THE minimum number of doses required during a specified  
7 time period. ~~and minimum~~

8 (D) MINIMUM levels of immunization for children in school.

9 (E) REPORTING UNDER SECTION 9206(2).

10 (F) THE ACQUISITION, MAINTENANCE, AND DISSEMINATION OF  
11 INFORMATION CONTAINED IN THE CHILDHOOD IMMUNIZATION REGISTRY  
12 ESTABLISHED UNDER SECTION 9207.

13 Sec. 16221. The department may investigate activities  
14 related to the practice of a health profession by a licensee, a  
15 registrant, or an applicant for licensure or registration. The  
16 department may hold hearings, administer oaths, and order rele-  
17 vant testimony to be taken and shall report its findings to the  
18 appropriate disciplinary subcommittee. The disciplinary subcom-  
19 mittee shall proceed under section 16226 if it finds that ~~any~~ 1  
20 OR MORE of the following grounds exist:

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

1 (b) Personal disqualifications, consisting of ~~any~~ 1 .OR  
2 MORE of the following:

3 (i) Incompetence.

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

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

9 (iv) Declaration of mental incompetence by a court of compe-  
10 tent jurisdiction.

11 (v) Conviction of a misdemeanor punishable by imprisonment  
12 for a maximum term of 2 years, a misdemeanor involving the ille-  
13 gal delivery, possession, or use of alcohol or a controlled sub-  
14 stance, or a felony. A certified copy of the court record is  
15 conclusive evidence of the conviction.

16 (vi) Lack of good moral character.

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

22 (viii) Conviction of a violation of section 492a of the  
23 Michigan penal code, Act No. 328 of the Public Acts of 1931,  
24 being section 750.492a of the Michigan Compiled Laws. A certi-  
25 fied copy of the court record is conclusive evidence of the  
26 conviction.

1           (i~~x~~) Conviction of a misdemeanor or felony involving fraud  
2 in obtaining or attempting to obtain fees related to the practice  
3 of a health profession. A certified copy of the court record is  
4 conclusive evidence of the conviction.

5           (x) Final adverse administrative action by a licensure, reg-  
6 istration, disciplinary, or certification board involving the  
7 holder of, or an applicant for, a license or registration regu-  
8 lated by another state or a territory of the United States. A  
9 certified copy of the record of the board is conclusive evidence  
10 of the final action.

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

15          (c) Prohibited acts, consisting of ~~any~~ 1 OR MORE of the  
16 following:

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

19          (ii) Permitting the license or registration to be used by an  
20 unauthorized 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~~ 1 OR  
2 MORE of the 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 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~~ 1 OR MORE of  
10 the 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 mailing address  
22 within 30 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, failure to respond to a complaint issued under this  
27 article or article 7, failure to appear at a compliance

1 conference or an administrative hearing, or failure to report  
2 under section 16222 or 16223.

3 (i) Failure to pay an installment of an assessment levied  
4 pursuant to section 2504 of the insurance code of 1956, Act  
5 No. 218 of the Public Acts of 1956, as amended, being section  
6 500.2504 of the Michigan Compiled Laws, within 60 days after  
7 notice by the appropriate board.

8 (j) A violation of section 17013 or 17513.

9 (k) Failure to meet 1 or more of the requirements for licen-  
10 sure or registration under section 16174.

11 (l) A violation of section 17015 or 17515.

12 (M) FAILURE TO REPORT VACCINATION INFORMATION UNDER  
13 SECTION 9206.

14 Sec. 16226. (1) After finding the existence of 1 or more of  
15 the grounds for disciplinary subcommittee action listed in sec-  
16 tion 16221, a disciplinary subcommittee shall impose 1 or more of  
17 the following sanctions for each violation:

18 <u>Violations of Section 16221</u>	<u>Sanctions</u>
19 Subdivision (a), (b)(ii), 20 (b)(iv), (b)(vi), or 21 (b)(vii)	Probation, limitation, denial, suspension, revocation, restitution, community service, or fine.
23 Subdivision (b)(viii)	Revocation or denial.
24 Subdivision (b)(i), 25 (b)(iii), (b)(v),	Limitation, suspension, revocation, denial,



1 or (e)(iv) suspension, revocation,  
 2 limitation, community service,  
 3 denial, or restitution.  
 4 Subdivision (f) Reprimand or fine.  
 5 Subdivision (g) Reprimand, probation, denial,  
 6 suspension, revocation, limita-  
 7 tion, restitution, community  
 8 service, or fine.  
 9 Subdivision (i) Suspension or fine.  
 10 Subdivision (j) Reprimand or fine.  
 11 Subdivision (k) Reprimand, denial, or  
 12 limitation.  
 13 Subdivision (L) OR (M) Denial, revocation, restitution,  
 14 probation, suspension, limita-  
 15 tion, reprimand, or fine.  
 16 (2) Determination of sanctions for violations under this  
 17 section shall be made by a disciplinary subcommittee. If, during  
 18 judicial review, the court of appeals determines that a final  
 19 decision or order of a disciplinary subcommittee prejudices sub-  
 20 stantial rights of the petitioner for any of the grounds listed  
 21 in section 106 of the administrative procedures act of 1969, ~~Act~~  
 22 ~~No. 306 of the Public Acts of 1969,~~ being section 24.306 of  
 23 Michigan Compiled Laws, and holds that the final decision or  
 24 order is unlawful and is to be set aside, the court shall state  
 25 on the record the reasons for the holding and may remand the case  
 26 to the disciplinary subcommittee for further consideration.

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

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