

**SENATE BILL NO. 700**

September 24, 1997, Introduced by Senator CONROY and referred to the Committee on Health Policy and Senior Citizens.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16174 and 16221 (MCL 333.16174 and 333.16221), section 16174 as amended by 1993 PA 80 and section 16221 as amended by 1996 PA 594.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1       Sec. 16174. (1) An individual who is licensed or registered  
2 under this article shall meet all of the following requirements:  
3       (a) Be 18 or more years of age.  
4       (b) Be of good moral character.  
5       (c) Have a specific education or experience in the health  
6 profession or in a subfield or specialty field of a health pro-  
7 fession, or training equivalent, or both, as prescribed by this  
8 article or rules of a board necessary to promote safe and  
9 competent practice and informed consumer choice.

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

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

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

9 (a) Establish that disciplinary proceedings before a similar  
10 licensure, registration, or specialty certification board of this  
11 or any other state, OF THE UNITED STATES MILITARY, OF THE FEDERAL  
12 GOVERNMENT, or OF ANOTHER country are not pending against the  
13 applicant.

14 (b) Establish that if sanctions have been imposed against  
15 the applicant by a similar licensure, registration, or specialty  
16 certification board of this or any other state OF THE UNITED  
17 STATES MILITARY, OF THE FEDERAL GOVERNMENT, or OF ANOTHER country  
18 based upon grounds that are substantially similar to those set  
19 forth in this article or article 7 or the rules promulgated under  
20 this article or article 7, as determined by the board or task  
21 force to which the applicant applies, the sanctions are not in  
22 force at the time of application.

23 (C) FILE WITH THE BOARD OR TASK FORCE A WRITTEN, SIGNED CON-  
24 SENT TO THE RELEASE OF INFORMATION REGARDING A DISCIPLINARY  
25 INVESTIGATION INVOLVING THE APPLICANT CONDUCTED BY A SIMILAR  
26 LICENSURE, REGISTRATION, OR SPECIALTY CERTIFICATION BOARD OF THIS

1 OR ANY OTHER STATE, OF THE UNITED STATES MILITARY, OF THE FEDERAL  
2 GOVERNMENT, OR OF ANOTHER COUNTRY.

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

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

13 (b) Require the applicant to secure from a national associa-  
14 tion or federation of state professional licensing boards certi-  
15 fication of compliance with the requirements described in subsec-  
16 tion (2).

17 (4) If, after issuing a license, registration, or certifica-  
18 tion, a board or task force or the department determines that  
19 sanctions have been imposed against the licensee or registrant by  
20 a similar licensure or registration or certification board as  
21 described in subsection (2)(b), ~~and that the sanctions are still~~  
22 ~~in force,~~ the disciplinary subcommittee may impose appropriate  
23 sanctions upon the licensee or registrant. The licensee or reg-  
24 istrant may request a show cause hearing before a hearing  
25 examiner to demonstrate why the sanctions should not be imposed.

26 (5) An applicant for licensure, registration, or specialty  
27 certification who is or has been licensed, registered, or

1 certified in ~~any~~ A HEALTH profession or specialty by another  
2 state or country shall disclose that fact on the application  
3 form.

4       Sec. 16221. The department may investigate activities  
5 related to the practice of a health profession by a licensee, a  
6 registrant, or an applicant for licensure or registration. The  
7 department may hold hearings, administer oaths, and order rele-  
8 vant testimony to be taken and shall report its findings to the  
9 appropriate disciplinary subcommittee. The disciplinary subcom-  
10 mittee shall proceed under section 16226 if it finds that 1 or  
11 more of the following grounds exist:

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

18       (b) Personal disqualifications, consisting of 1 or more of  
19 the following:

20       (i) Incompetence.

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

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

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

1 (v) Conviction of a misdemeanor punishable by imprisonment  
2 for a maximum term of 2 years; a misdemeanor involving the ille-  
3 gal delivery, possession, or use of a controlled substance; or a  
4 felony. A certified copy of the court record is conclusive evi-  
5 dence of the conviction.

6 (vi) Lack of good moral character.

7 (vii) Conviction of a criminal offense under sections 520a  
8 to 520l of the Michigan penal code, ~~Act No. 328 of the Public~~  
9 ~~Acts of 1931, being sections 750.520a to 750.520l of the Michigan~~  
10 ~~Compiled Laws~~ 1931 PA 328, MCL 750.520A TO 750.520L. A certi-  
11 fied copy of the court record is conclusive evidence of the  
12 conviction.

13 (viii) Conviction of a violation of section 492a of the  
14 Michigan penal code, ~~Act No. 328 of the Public Acts of 1931,~~  
15 ~~being section 750.492a of the Michigan Compiled Laws~~ 1931 PA  
16 328, MCL 750.492A. A certified copy of the court record is con-  
17 clusive evidence of the conviction.

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

22 (x) Final adverse administrative action by a licensure, reg-  
23 istration, disciplinary, or certification board involving the  
24 holder of, or an applicant for, a license or registration regu-  
25 lated by another state or a territory of the United States, BY  
26 THE UNITED STATES MILITARY, BY THE FEDERAL GOVERNMENT, OR BY

1 ANOTHER COUNTRY. A certified copy of the record of the board is  
2 conclusive evidence of the final action.

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

7 (c) Prohibited acts, consisting of 1 or more of the  
8 following:

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

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

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

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

19 (d) Unethical business practices, consisting of 1 or more of  
20 the following:

21 (i) False or misleading advertising.

22 (ii) Dividing fees for referral of patients or accepting  
23 kickbacks on medical or surgical services, appliances, or medica-  
24 tions purchased by or in behalf of patients.

25 (iii) Fraud or deceit in obtaining or attempting to obtain  
26 third party reimbursement.

1 (e) Unprofessional conduct, consisting of 1 or more of the  
2 following:

3 (i) Misrepresentation to a consumer or patient or in obtain-  
4 ing or attempting to obtain third party reimbursement in the  
5 course of professional practice.

6 (ii) Betrayal of a professional confidence.

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

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

13 (f) Failure to report a change of name or mailing address  
14 within 30 days after the change occurs.

15 (g) A violation, or aiding or abetting in a violation, of  
16 this article or of a rule promulgated under this article.

17 (h) Failure to comply with a subpoena issued pursuant to  
18 this part, failure to respond to a complaint issued under this  
19 article or article 7, failure to appear at a compliance confer-  
20 ence or an administrative hearing, or failure to report under  
21 section 16222 or 16223.

22 (i) Failure to pay an installment of an assessment levied  
23 pursuant to section 2504 of the insurance code of 1956, ~~Act~~  
24 ~~No. 218 of the Public Acts of 1956, being section 500.2504 of the~~  
25 ~~Michigan Compiled Laws~~ 1956 PA 218, MCL 500.2504, within 60 days  
26 after notice by the appropriate board.

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

2       (k) Failure to meet 1 or more of the requirements for  
3 licensure or registration under section 16174.

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

5       (m) A violation of section 17016 or 17516.

6       (n) A violation of section 5654 or 5655.