

Act No. 227  
Public Acts of 1998  
Approved by the Governor  
July 2, 1998  
Filed with the Secretary of State  
July 3, 1998  
EFFECTIVE DATE: July 3, 1998

STATE OF MICHIGAN  
89TH LEGISLATURE  
REGULAR SESSION OF 1998

Introduced by Senators Conroy and Shugars

# ENROLLED SENATE BILL No. 700

AN ACT to amend 1978 PA 368, entitled "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," 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:*

Sec. 16174. (1) An individual who is licensed or registered under this article shall meet all of the following requirements:

- (a) Be 18 or more years of age.
- (b) Be of good moral character.

(c) Have a specific education or experience in the health profession or in a subfield or specialty field of a health profession, or training equivalent, or both, as prescribed by this article or rules of a board necessary to promote safe and competent practice and informed consumer choice.

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

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

(2) In addition to the requirements of subsection (1), an applicant for licensure, registration, or specialty certification under this article shall meet all of the following requirements:

(a) Establish that disciplinary proceedings before a similar licensure, registration, or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country are not pending against the applicant.

(b) Establish that if sanctions have been imposed against the applicant by a similar licensure, registration, or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country based upon grounds that are substantially similar to those set forth in this article or article 7 or the rules promulgated under this article or article 7, as determined by the board or task force to which the applicant applies, the sanctions are not in force at the time of application.

(c) File with the board or task force a written, signed consent to the release of information regarding a disciplinary investigation involving the applicant conducted by a similar licensure, registration, or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country.

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

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

(b) Require the applicant to secure from a national association or federation of state professional licensing boards certification of compliance with the requirements described in subsection (2).

(4) If, after issuing a license, registration, or certification, a board or task force or the department determines that sanctions have been imposed against the licensee or registrant by a similar licensure or registration or certification board as described in subsection (2)(b), the disciplinary subcommittee may impose appropriate sanctions upon the licensee or registrant. The licensee or registrant may request a show cause hearing before a hearing examiner to demonstrate why the sanctions should not be imposed.

(5) An applicant for licensure, registration, or specialty certification who is or has been licensed, registered, or certified in a health profession or specialty by another state or country shall disclose that fact on the application form.

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, 1931 PA 328, MCL 750.520a to 750.520l. 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, 1931 PA 328, MCL 750.492a. 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, by the United States military, by the federal government, or by another country. 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 a rule 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, 1956 PA 218, MCL 500.2504, 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(3).
- (o) A violation of section 5654 or 5655.
- (p) A violation of section 16274.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate.

*Mary B. Ballew*

Clerk of the House of Representatives.

Approved \_\_\_\_\_

\_\_\_\_\_  
Governor.