

# HOUSE BILL No. 4773

June 10, 1999, Introduced by Reps. Law, Jellema, Bisbee, DeWeese, Middaugh, Howell, Kelly, Shulman and Cassis and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled  
"Public health code,"  
by amending section 16221 (MCL 333.16221), as amended by 1998  
PA 227.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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 disciplinary subcommittee. The disciplinary subcom-  
7 mittee shall proceed under section 16226 if it finds that 1 or  
8 more of the following grounds exist:

9       (a) A violation of general duty, consisting of negligence or  
10 failure to exercise due care, including negligent delegation to

1 or supervision of employees or other individuals, whether or not  
2 injury results, or any conduct, practice, or condition which  
3 impairs, or may impair, the ability to safely and skillfully  
4 practice the health profession.

5 (b) Personal disqualifications, consisting of 1 or more of  
6 the following:

7 (i) Incompetence.

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

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

13 (iv) Declaration of mental incompetence by a court of compe-  
14 tent jurisdiction.

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

20 (vi) Lack of good moral character.

21 (vii) Conviction of a criminal offense under sections 520a  
22 to 520l of the Michigan penal code, 1931 PA 328, MCL 750.520a to  
23 750.520l. A certified copy of the court record is conclusive  
24 evidence of the conviction.

25 (viii) Conviction of a violation of section 492a of the  
26 Michigan penal code, 1931 PA 328, MCL 750.492a. A certified copy  
27 of the court record is conclusive evidence of the conviction.

1           (ix) 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, by  
9 the United States military, by the federal government, or by  
10 another country. A certified copy of the record of the board is  
11 conclusive evidence of the final action.

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

16           (c) Prohibited acts, consisting of 1 or more of the  
17 following:

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

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

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

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

1 (d) Unethical business practices, consisting of 1 or more of  
2 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 1 or more 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~~ A REFERRAL BY A PHYSICIAN FOR  
21 A DESIGNATED HEALTH SERVICE THAT IS DETERMINED BY A DISCIPLINARY  
22 SUBCOMMITTEE TO VIOLATE SECTION 1877 OF PART C OF TITLE XVIII OF  
23 THE SOCIAL SECURITY ACT, 42 U.S.C. 1395nn, OR A REGULATION  
24 PROMULGATED UNDER THAT SECTION. SECTION 1877 AND THE REGULATIONS  
25 PROMULGATED UNDER THAT SECTION, AS THEY EXIST ON THE EFFECTIVE  
26 DATE OF THE AMENDATORY ACT THAT ADDED THIS SENTENCE, ARE  
27 INCORPORATED BY REFERENCE FOR PURPOSES OF THIS SUBPARAGRAPH. A

1 DISCIPLINARY SUBCOMMITTEE SHALL APPLY SECTION 1877 AND THE  
2 REGULATIONS PROMULGATED UNDER THAT SECTION REGARDLESS OF THE  
3 SOURCE OF PAYMENT FOR THE DESIGNATED HEALTH SERVICE REFERRED AND  
4 RENDERED. AS USED IN THIS SUBPARAGRAPH, "DESIGNATED HEALTH  
5 SERVICE" MEANS THAT TERM AS DEFINED IN SECTION 1877 AND THE REGU-  
6 LATIONS PROMULGATED UNDER THAT SECTION.

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

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

11 (h) Failure to comply with a subpoena issued pursuant to  
12 this part, failure to respond to a complaint issued under this  
13 article or article 7, failure to appear at a compliance confer-  
14 ence or an administrative hearing, or failure to report under  
15 section 16222 or 16223.

16 (i) Failure to pay an installment of an assessment levied  
17 pursuant to ~~section 2504~~ of the insurance code of 1956, 1956 PA  
18 218, MCL ~~500.2504~~ 500.100 TO 500.8302, within 60 days after  
19 notice by the appropriate board.

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

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

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

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

25 (n) Failure to comply with section 9206(3).

26 (o) A violation of section 5654 or 5655.

(p) A violation of section 16274.

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Final page.

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