

SENATE BILL No. 1174

April 28, 2004, Introduced by Senators LELAND, BERNERO, THOMAS, CLARK-COLEMAN, CLARKE, SCHAUER, OLSHOVE, CHERRY, BRATER, HAMMERSTROM, JELINEK, McMANUS, GILBERT, KUIPERS, BISHOP, CROPSEY, BARCIA, SWITALSKI, EMERSON, GOSCHKA, JOHNSON and BIRKHOLZ and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16263, 16315, 16335, 17801, and 17820 (MCL 333.16263, 333.16315, 333.16335, 333.17801, and 333.17820), section 16263 as amended by 2004 PA 3, section 16315 as amended by 2001 PA 232, section 16335 as added by 1993 PA 80, and sections 17801 and 17820 as amended by 1987 PA 213, and by adding sections 17823, 17824, and 17825.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16263. (1) Except as provided in subsection (2), the
2 following words, titles, or letters or a combination thereof,
3 with or without qualifying words or phrases, are restricted in
4 use only to those persons authorized under this article to use
5 the terms and in a way prescribed in this article:

6 (a) "Chiropractic", "doctor of chiropractic", "chiropractor",

1 "d.c.", and "chiropractic physician".

2 (b) "Dentist", "doctor of dental surgery", "oral and
3 maxillofacial surgeon", "orthodontist", "prosthodontist",
4 "periodontist", "endodontist", "oral pathologist", "pediatric
5 dentist", "dental hygienist", "registered dental hygienist",
6 "dental assistant", "registered dental assistant", "r.d.a.",
7 "d.d.s.", "d.m.d.", and "r.d.h.".

8 (c) "Doctor of medicine" and "m.d.".

9 (d) "Physician's assistant" and "p.a.".

10 (e) "Registered professional nurse", "registered nurse",
11 "r.n.", "licensed practical nurse", "l.p.n.", "nurse midwife",
12 "nurse anesthetist", "nurse practitioner", "trained attendant",
13 and "t.a.".

14 (f) "Doctor of optometry", "optometrist", and "o.d.".

15 (g) "Osteopath", "osteopathy", "osteopathic practitioner",
16 "doctor of osteopathy", "diplomate in osteopathy", and "d.o.".

17 (h) "Pharmacy", "pharmacist", "apothecary", "drugstore",
18 "druggist", "medicine store", "prescriptions", and "r.ph.".

19 (i) "Physical therapy", "physical therapist", "**doctor of**
20 **physiotherapy**", "**doctor of physical therapy**", "physiotherapist",
21 "**physiotherapy**", "registered physical therapist", "licensed
22 physical therapist", "physical therapy technician", "**physical**
23 **therapist assistant**", "**physical therapy assistant**",
24 "**physiotherapist assistant**", "**physiotherapy assistant**",
25 "**p.t. assistant**", "p.t.", "r.p.t.", "l.p.t.", "c.p.t.", "d.p.t.",
26 "m.p.t.", "p.t.a.", "registered p.t.a.", "licensed p.t.a.",
27 "certified p.t.a.", "c.p.t.a.", "l.p.t.a.", "r.p.t.a.", and

1 "p.t.t."

2 (j) "Chiropodist", "chiropody", "chiropodical", "podiatry",
3 "podiatrist", "podiatric", "doctor of podiatric medicine", "foot
4 specialist", "podiatric physician and surgeon", and "d.p.m."

5 (k) "Consulting psychologist", "psychologist", "psychological
6 assistant", "psychological examiner", "licensed psychologist",
7 and "limited licensed psychologist".

8 (l) "Licensed professional counselor", "licensed counselor",
9 "professional counselor", and "l.p.c."

10 (m) "Sanitarian", "registered sanitarian", and "r.s."

11 (n) "Social worker", "certified social worker", "social work
12 technician", "s.w.", "c.s.w.", and "s.w.t."

13 (o) "Veterinary", "veterinarian", "veterinary doctor",
14 "veterinary surgeon", "doctor of veterinary medicine", "v.m.d.",
15 "d.v.m.", "animal technician", or "animal technologist".

16 (p) "Occupational therapist", "occupational therapist
17 registered", "certified occupational therapist", "o.t.",
18 "o.t.r.", "c.o.t.", "certified occupational therapy assistant",
19 "occupational therapy assistant", or "c.o.t.a."

20 (q) "Marriage advisor" or "marriage consultant"; "family
21 counselor", "family advisor", "family therapist", or "family
22 consultant"; "family guidance counselor", "family guidance
23 advisor", or "family guidance consultant"; "marriage guidance
24 counselor", "marriage guidance advisor", or "marriage guidance
25 consultant"; "family relations counselor"; "marriage relations
26 counselor", "marriage relations advisor", or "marriage relations
27 consultant"; "marital counselor" or "marital therapist"; "limited

1 licensed marriage and family therapist" or "limited licensed
2 marriage counselor"; "licensed marriage and family therapist" or
3 "licensed marriage counselor"; and "l.m.f.t.".

4 (r) "Nursing home administrator".

5 (s) "Respiratory therapist", "respiratory care practitioner",
6 "licensed respiratory therapist", "licensed respiratory care
7 practitioner", "r.t.", "r.c.p.", "l.r.t.", and "l.r.c.p.".

8 (2) Notwithstanding section 16261, a person who was specially
9 trained at an institution of higher education in this state to
10 assist a physician in the field of orthopedics and upon
11 completion of training, received a 2-year associate of science
12 degree as an orthopedic physician's assistant before January 1,
13 1977, may use the title "orthopedic physician's assistant"
14 whether or not the person is licensed under this article.

15 Sec. 16315. (1) The health professions regulatory fund is
16 established in the state treasury. Except as otherwise provided
17 in this section, the state treasurer shall credit the fees
18 collected under sections 16319 to 16349 to the health professions
19 regulatory fund. The money in the health professions regulatory
20 fund shall be expended only as provided in subsection (5).

21 (2) The state treasurer shall direct the investment of the
22 health professions regulatory fund. Interest and earnings from
23 health professions regulatory fund investment shall be credited
24 to the health professions regulatory fund.

25 (3) The unencumbered balance in the health professions
26 regulatory fund at the close of the fiscal year shall remain in
27 the health professions regulatory fund and shall not revert to

1 the general fund.

2 (4) The health professions regulatory fund may receive gifts
3 and devises and other money as provided by law.

4 (5) The department ~~of consumer and industry services~~ shall
5 use the health professions regulatory fund only to carry out its
6 powers and duties under this article and article 7 including, but
7 not limited to, reimbursing the department of attorney general
8 for the reasonable cost of services provided to the department
9 ~~of consumer and industry services~~ under this article and
10 article 7.

11 (6) The nurse professional fund is established in the state
12 treasury. Of the money that is attributable to per-year license
13 fees collected under section 16327, the state treasurer shall
14 credit \$2.00 of each individual annual license fee collected to
15 the nurse professional fund. The money in the nurse professional
16 fund shall be expended only as provided in subsection (9).

17 (7) The state treasurer shall direct the investment of the
18 nurse professional fund, and shall credit interest and earnings
19 from the investment to the nurse professional fund. The nurse
20 professional fund may receive gifts and devises and other money
21 as provided by law.

22 (8) The unencumbered balance in the nurse professional fund
23 at the close of the fiscal year shall remain in the nurse
24 professional fund and shall not revert to the general fund.

25 (9) The department ~~of consumer and industry services~~ shall
26 use the nurse professional fund each fiscal year only as
27 follows:

1 (a) The department may use not more than 1/3 of the nurse
2 professional fund for the establishment and operation of a nurse
3 continuing education program.

4 (b) The department may use not more than 1/3 of the nurse
5 professional fund to perform research and development studies to
6 promote and advance the nursing profession.

7 (c) The department shall use not less than 1/3 of the nurse
8 professional fund to establish and operate a nursing scholarship
9 program.

10 (10) The official prescription form program fund established
11 by the amendatory act that added this section is abolished. The
12 money remaining in the official prescription form program fund on
13 ~~the effective date of the amendatory act that added~~
14 ~~subsection (11)~~ **January 3, 2002** shall be transferred by the
15 state treasurer to the pain management education and controlled
16 substances electronic monitoring and antidiversion fund created
17 in subsection (11).

18 (11) The pain management education and controlled substances
19 electronic monitoring and antidiversion fund is established in
20 the state treasury.

21 (12) The state treasurer shall direct the investment of the
22 pain management education and controlled substances electronic
23 monitoring and antidiversion fund. Interest and earnings from
24 investment of the pain management education and controlled
25 substances electronic monitoring and antidiversion fund shall be
26 credited to the pain management education and controlled
27 substances electronic monitoring and antidiversion fund.

1 (13) The unencumbered balance in the pain management
2 education and controlled substances electronic monitoring and
3 antidiversion fund at the close of the fiscal year shall remain
4 in the pain management education and controlled substances
5 electronic monitoring and antidiversion fund and shall not revert
6 to the general fund. The pain management education and
7 controlled substances electronic monitoring and antidiversion
8 fund may receive gifts and devises and other money as provided by
9 law. Twenty dollars of the license fee received by the
10 department ~~of consumer and industry services~~ under
11 section 16319 shall be deposited with the state treasurer to the
12 credit of the pain management education and controlled substances
13 electronic monitoring and antidiversion fund. The department
14 shall use the pain management education and controlled substances
15 electronic monitoring and antidiversion fund only in connection
16 with programs relating to pain management education for health
17 professionals, preventing the diversion of controlled substances,
18 and development and maintenance of the electronic monitoring
19 system for controlled substances data required by section 7333a.

20 (14) **The physical therapy professional fund is established in**
21 **the state treasury. Of the money that is attributed to per-year**
22 **license fees collected under section 16335, the state treasurer**
23 **shall credit 10% of each individual annual license fee collected**
24 **to the physical therapy professional fund. The money in the**
25 **physical therapy professional fund shall be expended only for the**
26 **establishment and operation of a physical therapy continuing**
27 **education program established under section 17823.**

1 (15) The state treasurer shall direct the investment of the
2 physical therapy professional fund and shall credit interest and
3 earnings from the investment to the physical therapy professional
4 fund. The physical therapy professional fund may receive gifts
5 and devises and other money as provided by law.

6 (16) The unencumbered balance in the physical therapy
7 professional fund at the close of the fiscal year shall remain in
8 the physical therapy professional fund and shall not revert to
9 the general fund.

10 Sec. 16335. Fees for a person licensed or seeking licensure
11 to engage in the practice of physical therapy under part 178 are
12 as follows:

- 13 (a) Application processing fee.....\$ 20.00
- 14 (b) Examination fees:

 - 15 Jurisprudence examination only..... 25.00

- 16 (c) License fee, per year..... ~~50.00~~ 60.00
- 17 ~~(d) Temporary license.....20.00~~
- 18 (d) ~~(e)~~ Limited license, per year..... 25.00

19 Sec. 17801. (1) As used in this part:

20 (a) "Physical therapist" means an individual licensed under
21 this article to engage in the practice of physical therapy.

22 (b) "Physical therapist assistant" means an individual who
23 assists a physical therapist in physical therapy intervention and
24 is a graduate of a nationally accredited physical therapist
25 assistant education program acceptable to the board.

26 (c) ~~(b)~~ "Practice of physical therapy", subject to
27 subsection (2), means the evaluation of, education of,

1 consultation with, or treatment of an individual by a **physical**
2 **therapist or under the direction and responsibility of a physical**
3 **therapist in compliance with the rules promulgated under**
4 **section 17824(1). Practice of physical therapy includes, but is**
5 **not limited to,** the employment of effective properties of
6 physical measures and the use of therapeutic exercises and
7 rehabilitative procedures, with or without ~~assistant~~ **assistive**
8 devices, for the purpose of preventing, correcting, or
9 alleviating a physical or mental disability; ~~— It includes~~
10 treatment planning, performance of tests and measurements **and**
11 **interpretation and labeling of the results,** interpretation of
12 referrals, **intervention selection,** initiation of referrals,
13 instruction, consultative services, and supervision of
14 personnel. Physical measures include massage, mobilization,
15 heat, cold, air, light, water, electricity, and sound.

16 (2) Practice of physical therapy does not include the
17 ~~identification of underlying medical problems or etiologies,~~
18 establishment of medical diagnoses ~~—~~ or the prescribing of
19 **medical** treatment.

20 (3) ~~(2)~~ In addition to the definitions in this part,
21 article 1 contains general definitions and principles of
22 construction applicable to all articles in this code and part 161
23 contains definitions applicable to this part.

24 Sec. 17820. (1) A person shall not engage in the practice
25 of physical therapy unless licensed or otherwise authorized by
26 this article. ~~A person shall engage in the actual treatment of~~
27 ~~an individual only upon the prescription of an individual holding~~

1 ~~a license, other than a subfield license, issued under part 166,~~
2 ~~170, 175, or 180, or the equivalent license issued by another~~
3 ~~state.~~

4 (2) An individual seeking licensure under this part shall
5 provide satisfactory evidence to the board that he or she has met
6 either of the following educational qualifications:

7 (a) Completed a nationally accredited physical therapist
8 educational program that is acceptable to the board.

9 (b) Received a physical therapy degree from a postsecondary
10 institution that is located outside of the United States and is
11 determined by the board to be substantially equivalent to a
12 nationally accredited physical therapist educational program that
13 is acceptable to the board.

14 Sec. 17823. (1) Notwithstanding the requirements of
15 part 161, beginning 2 years after the effective date of the
16 amendatory act that added this section, the board shall require a
17 licensee seeking renewal of a physical therapy license to furnish
18 the board with satisfactory evidence that during the 2 years
19 immediately preceding an application for renewal the licensee has
20 attended continuing education courses or programs approved by the
21 board and totaling not less than 40 hours in subjects related to
22 the practice of physical therapy and designed to further educate
23 licensees.

24 (2) As required under section 16204, the department, in
25 consultation with the board, shall promulgate rules requiring
26 each applicant for license renewal to complete as part of the
27 continuing education requirement of subsection (1) an appropriate

1 number of hours or courses in pain and symptom management.

2 Sec. 17824. (1) The department, in consultation with the
3 board, shall promulgate rules to establish standards of ethics
4 and standards of practice for physical therapists.

5 (2) A physical therapist shall adhere to the standards of
6 ethics, standards of practice, and supervision guidelines
7 established in the rules promulgated under subsection (1).

8 (3) A physical therapist shall refer a patient to an
9 appropriate health care practitioner if the physical therapist
10 has reasonable cause to believe that symptoms or conditions are
11 present that require services beyond the scope of practice of
12 physical therapy.

13 (4) A physical therapist shall consult with an appropriate
14 health care practitioner if a patient does not show reasonable
15 response to treatment in a time period consistent with the
16 standards of practice established in the rules promulgated under
17 subsection (1).

18 Sec. 17825. This part does not require or preclude third
19 party reimbursement for services provided under this part and
20 does not preclude a health maintenance organization, a health
21 care benefit plan, a nonprofit health care corporation, a
22 worker's disability compensation insurer, a health insurer, an
23 automobile insurer, or the medicaid program from requiring a
24 member or enrollee to fulfill benefit requirements for physical
25 therapy services, including, but not limited to, prescription,
26 referral, or preapproval. As used in this section, "medicaid"
27 means the program for medical assistance created under title XIX

1 of the social security act, 42 USC 1396 to 1396v.