

HOUSE BILL No. 5842

September 23, 2014, Introduced by Rep. Pettalia and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16245, 16247, 16248, and 16249 (MCL 333.16245, 333.16247, 333.16248, and 333.16249), section 16245 as amended by 2013 PA 268 and sections 16247, 16248, and 16249 as amended by 1993 PA 79, and by adding section 16245a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16245. (1) Except as otherwise provided in this section
2 **OR SECTION 16245A**, an individual whose license is limited,
3 suspended, or revoked under this part may apply to his or her board
4 or task force for a reinstatement of a revoked or suspended license
5 or reclassification of a limited license pursuant to section 16247
6 or 16249.

7 (2) Except as otherwise provided in this section **OR SECTION**

1 16245A, an individual whose registration is suspended or revoked
2 under this part may apply to his or her board for a reinstatement
3 of a suspended or revoked registration pursuant to section 16248.

4 (3) A board or task force shall reinstate a license or
5 registration suspended for grounds stated in section 16221(j) upon
6 payment of the installment.

7 (4) Except as otherwise provided in this ~~subsection,~~ **SECTION**
8 **OR SECTION 16245A,** in case of a revoked license or registration, an
9 applicant shall not apply for reinstatement before the expiration
10 of 3 years after the effective date of the revocation. ~~In~~ **EXCEPT AS**
11 **OTHERWISE PROVIDED IN THIS SECTION OR SECTION 16245A, IN** the case
12 of a license or registration that was revoked for a violation of
13 section 16221(b) (vii) or (xiii), a violation of section 16221(c) (iv)
14 consisting of a felony conviction, any other felony conviction
15 involving a controlled substance, or a violation of section
16 16221(q), an applicant shall not apply for reinstatement before the
17 expiration of 5 years after the effective date of the revocation.
18 ~~In the case of a license or registration that was permanently~~
19 ~~revoked for a violation of section 16221(b) (xiii), the former~~
20 ~~licensee or registrant is ineligible for reinstatement. The~~
21 department shall return an application for reinstatement received
22 before the expiration of the applicable time period under this
23 subsection. ~~or if the applicant is ineligible for reinstatement~~
24 ~~under this subsection.~~

25 (5) The department shall provide an opportunity for a hearing
26 before final rejection of an application for reinstatement unless
27 the application is returned because the applicant is ineligible for

1 reinstatement under subsection (4) OR (9).

2 (6) Based upon the recommendation of the disciplinary
3 subcommittee for each health profession, the department shall adopt
4 guidelines to establish specific criteria to be met by an applicant
5 for reinstatement under this article, article 7, or article 8. The
6 criteria may include corrective measures or remedial education as a
7 condition of reinstatement. If a board or task force, in
8 reinstating a license or registration, deviates from the guidelines
9 adopted under this subsection, the board or task force shall state
10 the reason for the deviation on the record.

11 (7) An individual who seeks reinstatement or reclassification
12 of a license or registration ~~pursuant to~~ **UNDER** this section shall
13 pay the application processing fee as a reinstatement or
14 reclassification fee. If approved for reinstatement or
15 reclassification, the individual shall pay the per year license or
16 registration fee for the applicable license or registration period.

17 (8) An individual who seeks reinstatement of a revoked or
18 suspended license or reclassification of a limited license under
19 this section shall have a criminal history check conducted in
20 accordance with section 16174 and submit a copy of the results of
21 the criminal history check to the board with his or her application
22 for reinstatement or reclassification.

23 (9) **AN INDIVIDUAL WHOSE LICENSE IS PERMANENTLY REVOKED UNDER**
24 **SECTION 16221 IS INELIGIBLE FOR REINSTATEMENT. THE DEPARTMENT SHALL**
25 **RETURN AN APPLICATION FOR REINSTATEMENT RECEIVED IF THE APPLICANT**
26 **IS INELIGIBLE FOR REINSTATEMENT UNDER THIS SUBSECTION.**

27 **SEC. 16245A. (1) IN ADDITION TO ANY OTHER PENALTY, REMEDY, OR**

1 SANCTION UNDER THIS ACT, AN INDIVIDUAL WHOSE LICENSE, REGISTRATION,
2 OR AUTHORIZATION TO ENGAGE IN THE PRACTICE OF A HEALTH PROFESSION
3 HAS BEEN PERMANENTLY REVOKED UNDER THIS ARTICLE IS PERMANENTLY
4 INELIGIBLE FOR A LICENSE, REGISTRATION, OR AUTHORIZATION TO ENGAGE
5 IN THE PRACTICE OF A HEALTH PROFESSION UNDER THIS ARTICLE BY THE
6 DEPARTMENT OR A BOARD OR TASK FORCE.

7 (2) THE DEPARTMENT OR A BOARD OR TASK FORCE SHALL NOT ISSUE A
8 LICENSE OR REGISTRATION TO AN INDIVIDUAL WHOSE LICENSE,
9 REGISTRATION, OR AUTHORIZATION TO ENGAGE IN THE PRACTICE OF A
10 HEALTH PROFESSION HAS BEEN PERMANENTLY REVOKED UNDER THIS ARTICLE.
11 THE DEPARTMENT OR A BOARD OR TASK FORCE SHALL NOT OTHERWISE
12 AUTHORIZE AN INDIVIDUAL TO ENGAGE IN THE PRACTICE OF A HEALTH
13 PROFESSION UNDER THIS ARTICLE IF THAT INDIVIDUAL'S LICENSE,
14 REGISTRATION, OR AUTHORIZATION TO ENGAGE IN THE PRACTICE OF A
15 HEALTH PROFESSION HAS BEEN PERMANENTLY REVOKED UNDER THIS ARTICLE.

16 Sec. 16247. (1) ~~A~~EXCEPT AS OTHERWISE PROVIDED IN THIS
17 SECTION, A board or task force may reinstate a license or issue a
18 limited license to an individual whose license has been suspended
19 or revoked under this part if after a hearing the board or task
20 force is satisfied by clear and convincing evidence that the
21 applicant is of good moral character, is able to practice the
22 profession with reasonable skill and safety to patients, has met
23 the criteria in the rules promulgated under section 16245(6), and
24 should be permitted in the public interest to practice. Pursuant to
25 the rules promulgated under section 16245(6), as a condition of
26 reinstatement, a disciplinary subcommittee, upon the recommendation
27 of a board or task force, may impose a disciplinary or corrective

1 measure authorized under this part and require that the licensee
2 attend a school or program selected by the board or task force to
3 take designated courses or training to become competent or
4 proficient in those areas of practice in which the board or task
5 force finds the licensee to be deficient. The board or task force
6 may require a statement on a form approved by it from the chief
7 administrator of the school or program attended or the person
8 responsible for the training certifying that the licensee has
9 achieved the required competency or proficiency.

10 (2) As a condition of reinstatement, a board or task force
11 shall place the licensee on probation for 1 year under conditions
12 set by the board or task force. If a licensee whose license has
13 been revoked cannot apply for reinstatement for 5 years after the
14 date of revocation, then, as a condition of reinstatement, the
15 board or task force shall require the licensee to take and pass the
16 current licensure examination.

17 (3) A board or task force shall not reinstate a license
18 suspended or revoked for grounds stated in section 16221(b) (i) ,
19 (iii) , or (iv) until it finds that the licensee is mentally or
20 physically able to practice with reasonable skill and safety to
21 patients. The board or task force may require further examination
22 of the licensee, at the licensee's expense, necessary to verify
23 that the licensee is mentally or physically able. **A-THE BOARD OR**
24 **TASK FORCE SHALL GIVE A** licensee affected by **DESCRIBED IN** this
25 section ~~shall be afforded~~ the opportunity at reasonable intervals
26 to demonstrate that he or she can resume competent practice in
27 accordance with standards of acceptable and prevailing practice.

1 (4) A BOARD OR TASK FORCE SHALL NOT REINSTATE A LICENSE OR
2 ISSUE A LIMITED LICENSE TO AN INDIVIDUAL WHOSE LICENSE HAS BEEN
3 PERMANENTLY REVOKED UNDER SECTION 16221.

4 Sec. 16248. (1) ~~A—EXCEPT AS OTHERWISE PROVIDED IN THIS~~
5 SECTION, A registration board may reinstate a registration revoked
6 or suspended under this part if, after a hearing, the board is
7 satisfied by clear and convincing evidence that the individual is
8 of good moral character, has the education and experience as
9 required in this article, has met the criteria in the rules
10 promulgated under section 16245(6), and will use the title lawfully
11 and act in accordance with this article.

12 (2) A BOARD OR TASK FORCE SHALL NOT REINSTATE A REGISTRATION
13 OR ISSUE A LIMITED REGISTRATION TO AN INDIVIDUAL WHOSE LICENSE HAS
14 BEEN PERMANENTLY REVOKED UNDER SECTION 16221.

15 Sec. 16249. ~~A—EXCEPT AS OTHERWISE PROVIDED IN SECTION 16245A,~~
16 A disciplinary subcommittee may reclassify a license limited under
17 this part to alter or remove the limitations if, after a hearing,
18 it is satisfied that the applicant will practice the profession
19 safely and competently within the area of practice and under
20 conditions stipulated by the disciplinary subcommittee, and should
21 be permitted in the public interest to so practice. The
22 disciplinary subcommittee may require the submission of information
23 necessary to make the determination required for reclassification.
24 As a condition of reclassification, the disciplinary subcommittee
25 may require that the licensee take an examination or attend a
26 school or program selected by the disciplinary subcommittee to take
27 designated courses or training to become competent in those areas

1 of practice the disciplinary subcommittee determines necessary for
2 reclassification. The disciplinary subcommittee may require a
3 statement on a form approved by it from the chief administrator of
4 the school or program attended or the person responsible for the
5 training certifying that the licensee has achieved the required
6 competency.

7 Enacting section 1. This amendatory act takes effect 90 days
8 after the date it is enacted into law.

9 Enacting section 2. This amendatory act does not take effect
10 unless all of the following bills of the 97th Legislature are
11 enacted into law:

12 (a) Senate Bill No.____ or House Bill No. 5839 (request no.
13 05248'14).

14 (b) Senate Bill No.____ or House Bill No. 5840 (request no.
15 05249'14).

16 (c) Senate Bill No.____ or House Bill No. 5841 (request no.
17 05250'14).