

SENATE BILL No. 2

January 16, 2013, Introduced by Senator JANSEN and referred to the Committee on Reforms, Restructuring and Reinventing.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 2701, 5119, 16125, 16161, 16163, 16216,
16231, 16231a, 16327, 17201, 17210, 17211, 17212, 17221, 17607,
17708, 17745, 17820, 17822, 18301, and 20201 (MCL 333.2701,
333.5119, 333.16125, 333.16161, 333.16163, 333.16216, 333.16231,
333.16231a, 333.16327, 333.17201, 333.17210, 333.17211,
333.17212, 333.17221, 333.17607, 333.17708, 333.17745, 333.17820,
333.17822, 333.18301, and 333.20201), section 2701 as added by
1990 PA 16, section 5119 as amended by 2000 PA 209, sections
16125 and 16161 as amended by 1989 PA 202, section 16163 as
amended by 2002 PA 643, section 16216 as added by 1993 PA 87,

section 16231 as amended by 2010 PA 382, section 16231a as added by 1993 PA 79, section 16327 as amended by 2009 PA 216, sections 17211 and 17221 as amended by 2006 PA 409, section 17212 as added by 1996 PA 355, section 17607 as added by 2008 PA 524, section 17708 as amended by 2012 PA 209, sections 17745 and 20201 as amended by 2011 PA 210, section 17820 as amended by 2009 PA 55, section 17822 as amended by 2005 PA 281, and section 18301 as amended by 2008 PA 523, and by adding sections 17202, 17210a, 17211a, 17214, and 17221a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2701. As used in this part:

2 (a) "Board certified" means certified to practice in a
3 particular medical ~~speciality~~ **SPECIALTY** by a national board
4 recognized by the American board of medical specialties or the
5 American osteopathic association.

6 (b) "Certified nurse midwife" means ~~an individual licensed~~
7 ~~as a registered professional nurse under part 172 who has been~~
8 ~~issued a specialty certification in the practice of nurse~~
9 ~~midwifery by the board of nursing under section 17210~~ **THAT TERM**
10 **AS DEFINED IN SECTION 17201.**

11 (c) "Certified nurse practitioner" means ~~an individual~~
12 ~~licensed as a registered professional nurse under part 172 who~~
13 ~~has been issued a specialty certification as a nurse practitioner~~
14 ~~by the board of nursing under section 17210~~ **THAT TERM AS DEFINED**
15 **IN SECTION 17201.**

16 (d) "Designated nurse" means a certified nurse midwife or
17 certified nurse practitioner.

(e) "Designated physician" means a physician qualified in 1
2 of the physician specialty areas identified in section 2711.

(f) "Designated professional" means a designated physician,
3 designated nurse, or physician's assistant.

(g) "Health resource shortage area" means a geographic area,
4 population group, or health facility designated by the department
5 under section 2717.

(h) "Medicaid" means benefits under the program of medical
6 assistance established under title XIX of the social security
7 act, ~~42 U.S.C. 1396 to 1396d, 1396f to 1396g, and 1396i to 1396s,~~
8 **42 USC 1396-1 TO 1396W-5**, and administered by the department of
9 social ~~HUMAN~~ services under the social welfare act, ~~Act No. 280~~
10 ~~of the Public Acts of 1939, being sections 400.1 to 400.121 of~~
11 ~~the Michigan Compiled Laws.1939 PA 280, MCL 400.1 TO 400.119B.~~

(i) "Medical school" means an accredited program for the
12 training of individuals to become physicians.

(j) "Medicare" means benefits under the federal medicare
13 program established under title XVIII of the social security act,
14 ~~42 U.S.C. 1395 to 1395b, 1395b 2 to 1395i, 1395i 1a to 1395i 2,~~
15 ~~1395j to 1395dd, 1395ff to 1395mm, and 1395oo to 1395eee.42 USC~~
16 **1395 TO 1395KKK.**

(k) "National health service corps" means the agency
17 established under ~~section 331 of title III of the public health~~
18 ~~service act, 42 U.S.C. 254d.42 USC 254D.~~

(l) "Nurse" means an individual licensed to engage in the
19 practice of nursing under part 172.

(m) "Nursing program" means an accredited program for the
20

1 training of individuals to become nurses.

2 (n) "Physician" means an individual licensed as a physician
3 under part 170 or an osteopathic physician under part 175.

4 (o) "Physician's assistant" means an individual licensed as
5 a physician's assistant under part 170 or part 175.

6 (p) "Physician's assistant program" means an accredited
7 program for the training of individuals to become physician's
8 assistants.

9 (q) "Service obligation" means the contractual obligation
10 undertaken by an individual under section 2705 or section 2707 to
11 provide health care services for a determinable time period at a
12 site designated by the department.

13 Sec. 5119. (1) An individual applying for a marriage license
14 shall be advised through the distribution of written educational
15 materials by the county clerk regarding prenatal care and the
16 transmission and prevention of venereal disease and HIV
17 infection. The written educational materials shall describe the
18 availability to the applicant of tests for both venereal disease
19 and HIV infection. The information shall include a list of
20 locations where HIV counseling and testing services funded by the
21 department are available. The written educational materials shall
22 be approved or prepared by the department.

23 (2) A county clerk shall not issue a marriage license to an
24 applicant who fails to sign and file with the county clerk an
25 application for a marriage license that includes a statement with
26 a check-off box indicating that the applicant has received the
27 educational materials regarding the transmission and prevention

1 of both venereal disease and HIV infection and has been advised
2 of testing for both venereal disease and HIV infection, pursuant
3 to subsection (1).

4 (3) If either applicant for a marriage license undergoes a
5 test for HIV or an antibody to HIV, and if the test results
6 indicate that an applicant is HIV infected, the physician or a
7 designee of the physician, the physician's assistant, the
8 certified nurse midwife, ~~or the certified nurse practitioner,~~ **OR**
9 **THE CLINICAL NURSE SPECIALIST-CERTIFIED** or the local health
10 officer or designee of the local health officer administering the
11 test immediately shall inform both applicants of the test
12 results, and shall counsel both applicants regarding the modes of
13 HIV transmission, the potential for HIV transmission to a fetus,
14 and protective measures.

15 (4) As used in this section:

16 (a) "Certified nurse midwife" means ~~an individual licensed~~
17 ~~as a registered professional nurse under part 172 who has been~~
18 ~~issued a specialty certification in the practice of nurse~~
19 ~~midwifery by the board of nursing under section 17210.~~ **THAT TERM**
20 **AS DEFINED IN SECTION 17201.**

21 (b) "Certified nurse practitioner" means ~~an individual~~
22 ~~licensed as a registered professional nurse under part 172 who~~
23 ~~has been issued a specialty certification as a nurse practitioner~~
24 ~~by the board of nursing under section 17210.~~ **THAT TERM AS DEFINED**
25 **IN SECTION 17201.**

26 (c) "CLINICAL NURSE SPECIALIST-CERTIFIED" **MEANS THAT TERM AS**
27 **DEFINED IN SECTION 17201.**

(D) ~~(c)~~—"Physician" means an individual licensed as a physician under part 170 or an osteopathic physician under part 175.

(E) ~~(d)~~—"Physician's assistant" means an individual licensed as a physician's assistant under part 170 or part 175.

Sec. 16125. (1) A licensing board shall be composed of a majority of members licensed in the health profession which that board licenses. The board shall include at least 1 public member. The director shall be an ex officio member without vote, but is not a member for the purposes of section 5 of article 5-V of the state constitution of 1963 or for determining a quorum. If a licensed health profession subfield is created ~~by~~ **UNDER** this article, the board shall include at least 1 licensee from each subfield.

(2) If a health profession subfield task force is created ~~by~~ **UNDER** this article, 1 licensee from each subfield ~~so~~ appointed to the board **UNDER SUBSECTION (1)** shall also be appointed as a member of the health profession subfield task force. ~~If~~ **EXCEPT AS PROVIDED IN SECTION 17221A, IF** a certified health profession specialty field task force is created ~~by~~ **UNDER** this article, 1 member of the board holding a license other than a health profession subfield license shall also be appointed to the specialty field task force.

Sec. 16161. (1) If a health profession subfield task force is created for a health profession, that task force shall serve as the task force for all health profession subfields within the scope of practice of the health profession and shall function as

1 set forth in this part.

2 (2) If a health profession specialty field task force is
3 created for a health profession, that task force shall serve as
4 the task force for all health profession specialty fields within
5 the scope of practice of the health profession and shall function
6 as set forth in this part. **HOWEVER, THIS SUBSECTION DOES NOT**
7 **APPLY TO THE ADVANCED PRACTICE REGISTERED NURSE TASK FORCE**
8 **CREATED IN SECTION 17221A.**

9 Sec. 16163. A—**EXCEPT AS PROVIDED IN SECTION 17221A, A** task
10 force shall recommend to the board as to:

11 (a) Determination of standards of education, training, and
12 experience required for practice in a health profession subfield
13 or for registration in a health profession specialty field, and,
14 where appropriate, guidelines for approval of educational
15 programs for the health profession subfield or health profession
16 specialty field.

17 (b) Qualifications required of applicants for licensure in
18 health profession subfields or for registration in health
19 profession specialty fields.

20 (c) Evaluation of qualifications for initial and continuing
21 licensure of practitioners in health profession subfields or
22 health profession specialty fields. The evaluation may cover
23 assessment of educational credentials, work experience and
24 related training, and administration of tests and examinations.

25 (d) Guidelines for utilization of, and standards of practice
26 for, licensees in health profession subfields or registrants in
27 health profession specialty fields.

1 Sec. 16216. (1) The chair of each board or task force shall
2 appoint 1 or more disciplinary subcommittees for that board or
3 task force. A disciplinary subcommittee for a board or task force
4 shall consist of 2 public members and 3 professional members from
5 the board or task force. The chair of a board or task force shall
6 not serve as a member of a disciplinary subcommittee. **HOWEVER,**
7 **THIS SUBSECTION DOES NOT APPLY TO THE ADVANCED PRACTICE**
8 **REGISTERED NURSE TASK FORCE CREATED IN SECTION 17221A.**

9 (2) A final decision of ~~the~~**A** disciplinary subcommittee
10 finding a violation of this article or article 7 ~~shall be by~~
11 **REQUIRES** a majority vote of the members appointed and serving on
12 the disciplinary subcommittee.

13 (3) A final decision of ~~the~~**A** disciplinary subcommittee
14 imposing a sanction under this article or article 7 or a final
15 decision of the disciplinary subcommittee other than a final
16 decision described in subsection (2) requires a majority vote of
17 the members appointed and serving on the disciplinary
18 subcommittee with an affirmative vote by at least 1 public
19 member.

20 (4) The chairperson of each disciplinary subcommittee shall
21 be a public member and shall be appointed by the chair of the
22 board or task force. **HOWEVER, THIS SUBSECTION DOES NOT APPLY TO**
23 **THE ADVANCED PRACTICE REGISTERED NURSE TASK FORCE CREATED IN**
24 **SECTION 17221A.**

25 Sec. 16231. (1) A person or governmental entity ~~who~~**THAT**
26 believes that a violation of this article or article 7 or a rule
27 promulgated under this article or article 7 exists may make an

1 allegation of that fact to the department in writing.

2 (2) If, ~~upon~~**AFTER** reviewing an application or an allegation
3 or a licensee's file under section 16211(4), the department
4 determines there is a reasonable basis to believe the existence
5 of a violation of this article or article 7 or a rule promulgated
6 under this article or article 7, the department, with the
7 authorization of the chair of the appropriate board or task force
8 or his or her designee, shall investigate. If the chair or his or
9 her designee fails to grant or deny authorization within 7 days
10 after receipt of a request for authorization, the department
11 shall investigate.

12 (3) ~~Upon the receipt of~~**IF THE DEPARTMENT RECEIVES**
13 information reported ~~pursuant to~~**UNDER** section 16243(2) that
14 indicates 3 or more malpractice settlements, awards, or judgments
15 against a licensee in a period of 5 consecutive years or 1 or
16 more malpractice settlements, awards, or judgments against a
17 licensee totaling more than \$200,000.00 in a period of 5
18 consecutive years, whether or not a judgment or award is stayed
19 pending appeal, the department shall investigate.

20 (4) At any time during an investigation or following the
21 issuance of a complaint, the department may schedule a compliance
22 conference pursuant to section 92 of the administrative
23 procedures act of 1969, MCL 24.292. The conference may include
24 the applicant, licensee, registrant, or individual, the
25 applicant's, licensee's, registrant's, or individual's attorney,
26 1 member of the department's staff, and any other individuals
27 approved by the department. One member of the appropriate board

1 or task force who is not a member of the disciplinary
2 subcommittee with jurisdiction over the matter, **OR A MEMBER OF**
3 **THE TASK FORCE IF THE DISCIPLINARY SUBCOMMITTEE WITH JURISDICTION**
4 **IS THE ADVANCED PRACTICE REGISTERED NURSE TASK FORCE CREATED IN**
5 **SECTION 17221A**, may attend the conference and provide ~~such~~ **ANY**
6 assistance ~~as~~ **THAT IS** needed. At the compliance conference, the
7 department shall attempt to reach agreement. If an agreement is
8 reached, the department shall submit a written statement
9 outlining the terms of the agreement, or a stipulation and final
10 order, if applicable, or a request for dismissal to the
11 appropriate disciplinary subcommittee for approval. If the
12 agreement or stipulation and final order or request for dismissal
13 is rejected by the disciplinary subcommittee, or if no agreement
14 is reached, a hearing before a hearings examiner shall be
15 scheduled. A party shall not make a transcript of the compliance
16 conference. All records and documents of a compliance conference
17 held before a complaint is issued are subject to section 16238.

18 (5) Within 90 days after an investigation is initiated under
19 subsection (2) or (3), the department shall do 1 or more of the
20 following:

- 21 (a) Issue a formal complaint.
- 22 (b) Conduct a compliance conference under subsection (4).
- 23 (c) Issue a summary suspension.
- 24 (d) Issue a cease and desist order.
- 25 (e) Dismiss the complaint.
- 26 (f) Place in the complaint file not more than 1 written
27 extension of not more than 30 days to take action under this

1 subsection.

2 (6) Unless the person submitting the allegation under
3 subsection (1) otherwise agrees in writing, the department shall
4 keep the identity of a person submitting the allegation
5 confidential until disciplinary proceedings under this part are
6 initiated against the subject of the allegation and the person
7 making the allegation is required to testify in the proceedings.

8 (7) The department shall serve a complaint ~~pursuant to~~ **UNDER**
9 section 16192. The department shall include in the complaint a
10 notice that the applicant, licensee, registrant, or individual
11 who is the subject of the complaint has 30 days from the date of
12 receipt to respond in writing to the complaint.

13 (8) The department shall treat the failure of the applicant,
14 licensee, registrant, or individual to respond to the complaint
15 within the 30-day period set forth in subsection (7) as an
16 admission of the allegations contained in the complaint. The
17 department shall notify the appropriate disciplinary subcommittee
18 of the individual's failure to respond and shall forward a copy
19 of the complaint to that disciplinary subcommittee. The
20 disciplinary subcommittee may then impose an appropriate sanction
21 under this article or article 7.

22 Sec. 16231a. (1) If an agreement is not reached at a
23 compliance conference held under section 16231(4), or if an
24 agreement is reached but is rejected by a disciplinary
25 subcommittee and the parties do not reach a new agreement, the
26 department shall hold a hearing before a hearings examiner
27 employed by or under contract to the department. If an agreement

1 is reached but is rejected by the disciplinary subcommittee, the
2 department shall not hold another compliance conference, but may
3 continue to try and reach a new agreement. The hearings examiner
4 shall conduct the hearing within 60 days after the compliance
5 conference at which an agreement is not reached or after the
6 agreement is rejected by the disciplinary subcommittee, unless a
7 new agreement is reached and approved by the disciplinary
8 subcommittee. One member of the appropriate board or task force
9 who is not a member of the disciplinary subcommittee with
10 jurisdiction over the matter, **OR A MEMBER OF THE TASK FORCE IF**
11 **THE DISCIPLINARY SUBCOMMITTEE WITH JURISDICTION IS THE ADVANCED**
12 **PRACTICE REGISTERED NURSE TASK FORCE CREATED IN SECTION 17221A,**
13 may attend the hearing and provide ~~such~~ **ANY** assistance ~~as~~ **THAT IS**
14 needed.

15 (2) The hearings examiner shall determine if there are
16 grounds for disciplinary action under section 16221 or if the
17 applicant, licensee, or registrant has violated this article or
18 article 7 or the rules promulgated under this article or article
19 7. The hearings examiner shall prepare recommended findings of
20 fact and conclusions of law for transmittal to the appropriate
21 disciplinary subcommittee. The hearings examiner shall not
22 recommend or impose penalties.

23 (3) The applicant, licensee, or registrant who is the
24 subject of the complaint or the department of attorney general
25 may request and be granted not more than 1 continuance by the
26 hearings examiner for good cause shown.

27 (4) The applicant, licensee, or registrant may be

1 represented at the hearing by legal counsel. The department shall
 2 be represented at the hearing by an assistant attorney general
 3 from the department of attorney general. The assistant attorney
 4 general shall not be the same individual assigned by the
 5 department of attorney general to provide legal counsel to the
 6 board or the special assistant attorney general described in
 7 section 16237.

8 (5) Unless a continuance ~~has been~~ **IS** granted under
 9 subsection (3), failure of an applicant, licensee, or registrant
 10 to appear or be represented at a scheduled hearing shall be
 11 treated by the hearings examiner as a default and an admission of
 12 the allegations contained in the complaint. The hearings examiner
 13 shall notify the appropriate disciplinary subcommittee of the
 14 individual's failure to appear and forward a copy of the
 15 complaint and any other relevant records to the disciplinary
 16 subcommittee. The disciplinary subcommittee may then impose an
 17 appropriate sanction under this article or article 7, or both.

18 Sec. 16327. (1) Fees for ~~a person~~ **AN INDIVIDUAL** licensed or
 19 seeking licensure to practice nursing as a registered nurse, a
 20 licensed practical nurse, or a trained attendant under part 172
 21 are as follows:

- | | | | |
|----|-----|---------------------------------|----------|
| 22 | (a) | Application processing fee..... | \$ 24.00 |
| 23 | (b) | License fee, per year..... | 30.00 |
| 24 | (c) | Temporary license..... | 10.00 |
| 25 | (d) | Limited license, per year..... | 10.00 |
| 26 | (e) | Specialty certification | |
| 27 | | for registered nurse: | |

- 1 (i) Application processing fee..... 24.00
2 (ii) Specialty certification, per year.... 14.00

3 (2) FEES FOR AN INDIVIDUAL WHO SEEKS OR HOLDS A LICENSE AS
4 AN ADVANCED PRACTICE REGISTERED NURSE UNDER PART 172 ARE AS
5 FOLLOWS:

- 6 (A) APPLICATION PROCESSING FEE..... \$ 24.00
7 (B) LICENSE FEE, PER YEAR..... 40.00

8 Sec. 17201. (1) As used in this part:

9 (A) "ADVANCED PRACTICE REGISTERED NURSE" OR "A.P.R.N." MEANS AN
10 INDIVIDUAL WHO IS LICENSED UNDER THIS PART AS A CERTIFIED NURSE
11 MIDWIFE, CERTIFIED NURSE PRACTITIONER, OR CLINICAL NURSE
12 SPECIALIST-CERTIFIED.

13 (B) "CERTIFIED NURSE MIDWIFE" OR "C.N.M." MEANS AN
14 INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING:

15 (i) IS A REGISTERED PROFESSIONAL NURSE.

16 (ii) IS ALSO LICENSED UNDER THIS PART AS A CERTIFIED NURSE
17 MIDWIFE AND MEETS THE REQUIREMENTS OF SECTION 17210A APPLICABLE
18 TO THAT LICENSE.

19 (iii) IN HIS OR HER PRACTICE, FOCUSES ON PRIMARY CARE SERVICES
20 FOR WOMEN THROUGHOUT THEIR LIFESPAN, INCLUDING COMPREHENSIVE
21 MATERNITY CARE THAT INCLUDES PRENATAL CARE, CHILDBIRTH IN DIVERSE
22 SETTINGS, POSTPARTUM CARE, AND NEWBORN CARE; GYNECOLOGICAL,
23 REPRODUCTIVE, AND CONTRACEPTIVE CARE; PHYSICAL EXAMS; DIAGNOSIS
24 AND TREATMENT OF COMMON HEALTH PROBLEMS WITH CONSULTATION OR
25 REFERRAL AS INDICATED; PRESCRIBING PHARMACOLOGICAL AND

1 NONPHARMACOLOGICAL INTERVENTIONS AND TREATMENTS; AND TREATMENT OF
2 MALE PARTNERS FOR SEXUALLY TRANSMITTED INFECTION AND REPRODUCTIVE
3 HEALTH.

4 (C) "CERTIFIED NURSE PRACTITIONER" OR "C.N.P." MEANS AN
5 INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING:

6 (i) IS A REGISTERED PROFESSIONAL NURSE.

7 (ii) IS ALSO LICENSED UNDER THIS PART AS A CERTIFIED NURSE
8 PRACTITIONER AND MEETS THE REQUIREMENTS OF SECTION 17210A
9 APPLICABLE TO THAT LICENSE.

10 (iii) IN HIS OR HER PRACTICE, FOCUSES ON THE PERFORMANCE OF
11 COMPREHENSIVE ASSESSMENTS; PROVIDING PHYSICAL EXAMINATIONS AND
12 OTHER HEALTH ASSESSMENTS AND SCREENING ACTIVITIES; AND
13 DIAGNOSING, TREATING, AND MANAGING PATIENTS WITH ACUTE AND
14 CHRONIC ILLNESSES AND DISEASES. NURSING CARE PROVIDED BY A C.N.P.
15 INCLUDES ORDERING, PERFORMING, SUPERVISING, AND INTERPRETING
16 LABORATORY AND IMAGING STUDIES; PRESCRIBING PHARMACOLOGICAL AND
17 NONPHARMACOLOGICAL INTERVENTIONS AND TREATMENTS THAT ARE WITHIN
18 THE C.N.P.'S SPECIALTY ROLE AND SCOPE OF PRACTICE; HEALTH
19 PROMOTION; DISEASE PREVENTION; HEALTH EDUCATION; AND COUNSELING
20 OF PATIENTS AND FAMILIES WITH POTENTIAL, ACUTE, AND CHRONIC
21 HEALTH DISORDERS.

22 (D) "CLINICAL NURSE SPECIALIST-CERTIFIED" OR "C.N.S.-C."
23 MEANS AN INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING:

24 (i) IS A REGISTERED PROFESSIONAL NURSE.

25 (ii) IS ALSO LICENSED UNDER THIS PART AS A CLINICAL NURSE
26 SPECIALIST-CERTIFIED AND MEETS THE REQUIREMENTS OF SECTION 17210A
27 APPLICABLE TO THAT LICENSE.

(iii) IN HIS OR HER PRACTICE, FOCUSES ON CONTINUOUS IMPROVEMENT OF PATIENT OUTCOMES AND NURSING CARE WITH BROAD FOCUS ACROSS THE AREAS OF DIRECT PATIENT CARE, PATIENT EDUCATION, NURSING PRACTICE, AND ORGANIZATIONAL SYSTEMS. THE C.N.S.-C. IS RESPONSIBLE AND ACCOUNTABLE FOR DIAGNOSIS, INTERVENTION AND TREATMENT OF HEALTH OR ILLNESS STATES, PHARMACOLOGICAL AND NONPHARMACOLOGICAL DISEASE MANAGEMENT, HEALTH PROMOTION, AND PREVENTION OF ILLNESS AND RISK BEHAVIOR AMONG INDIVIDUALS, FAMILIES, GROUPS, AND COMMUNITIES. THE C.N.S.-C. EVALUATES PATIENT OUTCOMES; TRANSLATES EVIDENCE INTO PRACTICE; AND DEVELOPS, PLANS, COORDINATES, AND DIRECTS PROGRAMS OF CARE FOR ACUTE AND CHRONICALLY ILL PATIENTS AND THEIR FAMILIES.

(E) "MENTORSHIP AGREEMENT" MEANS AN AGREEMENT THAT MEETS THE REQUIREMENTS OF SECTION 17211A(1)(D).

(F) "PRACTICE OF ADVANCED PRACTICE REGISTERED NURSING" MEANS ANY OF THE TASKS, FUNCTIONS, OR DUTIES DESCRIBED IN SUBDIVISION (B) (iii), (C) (iii), OR (D) (iii).

(G) ~~(a)~~—"Practice of nursing" means the systematic application of substantial specialized knowledge and skill, derived from the biological, physical, and behavioral sciences, to the care, treatment, counsel, and health teaching of individuals who are experiencing changes in the normal health processes or who require assistance in the maintenance of health and the prevention or management of illness, injury, or disability.

(H) ~~(b)~~—"Practice of nursing as a licensed practical nurse" or "l.p.n." means the practice of nursing based on less

1 comprehensive knowledge and skill than that required of a
2 registered professional nurse and performed under the supervision
3 of a registered professional nurse, physician, or dentist.

4 (I) ~~(e)~~ "Registered professional nurse" or "r.n." means an
5 individual licensed under this ~~article~~ **PART** to engage in the
6 practice of nursing, which scope of practice includes the
7 teaching, direction, and supervision of less skilled personnel in
8 the performance of delegated nursing activities.

9 (2) In addition to the definitions in this part, article 1
10 contains general definitions and principles of construction
11 applicable to all articles in the code and part 161 contains
12 definitions applicable to this part.

13 **SEC. 17202. AN ADVANCED PRACTICE REGISTERED NURSE SHALL DO**
14 **ALL OF THE FOLLOWING:**

15 (A) PROVIDE THOSE FUNCTIONS COMMON TO THE POPULATION FOR
16 WHICH ADVANCED PRACTICE REGISTERED NURSES ARE EDUCATIONALLY AND
17 EXPERIENTIALLY PREPARED.

18 (B) COMPLY WITH THE STANDARDS ESTABLISHED BY THE BOARD OF
19 NURSING AND WITH THE NATIONAL ACCREDITATION STANDARDS OF THE
20 NATIONAL PROFESSIONAL NURSING ASSOCIATIONS APPLICABLE TO HIS OR
21 HER LICENSE.

22 (C) CONSULT WITH OR REFER PATIENTS TO OTHER HEALTH
23 PROFESSIONALS AS APPROPRIATE.

24 (D) SUPERVISE REGISTERED PROFESSIONAL NURSES, LICENSED
25 PRACTICAL NURSES, AND OTHER HEALTH PROFESSIONALS AS APPROPRIATE.

26 Sec. 17210. The board of nursing may issue a specialty
27 certification to a registered professional nurse who has advanced

1 training beyond that required for initial licensure and who has
2 demonstrated competency through examination or other evaluative
3 processes and who practices in ~~1 of the following health~~
4 profession specialty fields: ~~nurse midwifery,~~ **FIELD OF** nurse
5 anesthetist. ~~, or nurse practitioner.~~

6 SEC. 17210A. (1) THE BOARD SHALL ISSUE A CERTIFIED NURSE
7 MIDWIFE LICENSE UNDER THIS ARTICLE TO A REGISTERED NURSE WHO
8 MEETS ALL OF THE FOLLOWING REQUIREMENTS:

9 (A) HAS COMPLETED AN ACCREDITED GRADUATE, POSTGRADUATE, OR
10 DOCTORAL LEVEL NURSING EDUCATION PROGRAM THAT PREPARES THE NURSE
11 FOR THE ROLE OF CERTIFIED NURSE MIDWIFE.

12 (B) IS CERTIFIED BY A NATIONALLY ACCREDITED CERTIFICATION
13 BODY AS DEMONSTRATING ROLE AND POPULATION FOCUSED COMPETENCIES
14 FOR CERTIFIED NURSE MIDWIVES, OR THE BOARD DETERMINES THAT HE OR
15 SHE MEETS THE STANDARDS FOR THAT CERTIFICATION.

16 (C) MAINTAINS CONTINUED COMPETENCE BY OBTAINING
17 RECERTIFICATION IN THE ROLE AND POPULATION DESCRIBED IN
18 SUBDIVISION (B) THROUGH THE NATIONAL CERTIFICATION PROGRAM, OR
19 THE BOARD DETERMINES THAT HE OR SHE MEETS THE STANDARDS FOR THAT
20 RECERTIFICATION.

21 (D) DEMONSTRATES TO THE SATISFACTION OF THE BOARD THAT HE OR
22 SHE MEETS ALL OF THE FOLLOWING:

23 (i) HAS ACQUIRED ADVANCED CLINICAL KNOWLEDGE AND SKILLS THAT
24 PRIMARILY PREPARE HIM OR HER TO PROVIDE DIRECT CARE TO PATIENTS,
25 AND ALSO TO PROVIDE INDIRECT CARE.

26 (ii) HIS OR HER PRACTICE BUILDS ON THE COMPETENCIES OF
27 REGISTERED PROFESSIONAL NURSES BY DEMONSTRATING A GREATER DEPTH

1 AND BREADTH OF KNOWLEDGE, A GREATER SYNTHESIS OF DATA, INCREASED
2 COMPLEXITY OF SKILLS AND INTERVENTIONS, AND GREATER ROLE
3 AUTONOMY.

4 (iii) IS EDUCATIONALLY PREPARED TO ASSUME RESPONSIBILITY AND
5 ACCOUNTABILITY FOR HEALTH PROMOTION OR MAINTENANCE AND THE
6 ASSESSMENT, DIAGNOSIS, AND MANAGEMENT OF PATIENT PROBLEMS,
7 INCLUDING, BUT NOT LIMITED TO, THE USE AND PRESCRIPTION OF
8 PHARMACOLOGIC AND NONPHARMACOLOGIC INTERVENTIONS.

9 (iv) HAS CLINICAL EXPERIENCE OF SUFFICIENT DEPTH AND BREADTH
10 TO PERFORM AS A LICENSEE.

11 (2) THE BOARD SHALL ISSUE A CERTIFIED NURSE PRACTITIONER
12 LICENSE UNDER THIS ARTICLE TO A REGISTERED NURSE WHO MEETS ALL OF
13 THE FOLLOWING REQUIREMENTS:

14 (A) HAS COMPLETED AN ACCREDITED GRADUATE, POSTGRADUATE, OR
15 DOCTORAL LEVEL NURSING EDUCATION PROGRAM THAT PREPARES THE NURSE
16 FOR THE ROLE OF CERTIFIED NURSE PRACTITIONER.

17 (B) IS CERTIFIED BY A NATIONALLY ACCREDITED CERTIFICATION
18 BODY AS DEMONSTRATING ROLE AND POPULATION FOCUSED COMPETENCIES
19 FOR CERTIFIED NURSE PRACTITIONERS, OR THE BOARD DETERMINES THAT
20 HE OR SHE MEETS THE STANDARDS FOR THAT CERTIFICATION.

21 (C) MAINTAINS CONTINUED COMPETENCE BY OBTAINING
22 RECERTIFICATION IN THE ROLE AND POPULATION DESCRIBED IN
23 SUBDIVISION (B) THROUGH THE NATIONAL CERTIFICATION PROGRAM, OR
24 THE BOARD DETERMINES THAT HE OR SHE MEETS THE STANDARDS FOR THAT
25 RECERTIFICATION.

26 (D) DEMONSTRATES TO THE SATISFACTION OF THE BOARD THAT HE OR
27 SHE MEETS ALL OF THE FOLLOWING:

1 (i) HAS ACQUIRED ADVANCED CLINICAL KNOWLEDGE AND SKILLS THAT
2 PRIMARILY PREPARE HIM OR HER TO PROVIDE DIRECT CARE TO PATIENTS,
3 AND ALSO TO PROVIDE INDIRECT CARE.

4 (ii) HIS OR HER PRACTICE BUILDS ON THE COMPETENCIES OF
5 REGISTERED PROFESSIONAL NURSES BY DEMONSTRATING A GREATER DEPTH
6 AND BREADTH OF KNOWLEDGE, A GREATER SYNTHESIS OF DATA, INCREASED
7 COMPLEXITY OF SKILLS AND INTERVENTIONS, AND GREATER ROLE
8 AUTONOMY.

9 (iii) IS EDUCATIONALLY PREPARED TO ASSUME RESPONSIBILITY AND
10 ACCOUNTABILITY FOR HEALTH PROMOTION OR MAINTENANCE AND THE
11 ASSESSMENT, DIAGNOSIS, AND MANAGEMENT OF PATIENT PROBLEMS,
12 INCLUDING, BUT NOT LIMITED TO, THE USE AND PRESCRIPTION OF
13 PHARMACOLOGIC AND NONPHARMACOLOGIC INTERVENTIONS.

14 (iv) HAS CLINICAL EXPERIENCE OF SUFFICIENT DEPTH AND BREADTH
15 TO PERFORM AS A LICENSEE.

16 (3) THE BOARD SHALL ISSUE A CLINICAL NURSE SPECIALIST-
17 CERTIFIED LICENSE UNDER THIS ARTICLE TO A REGISTERED NURSE WHO
18 MEETS ALL OF THE FOLLOWING REQUIREMENTS:

19 (A) HAS COMPLETED AN ACCREDITED GRADUATE, POSTGRADUATE, OR
20 DOCTORAL LEVEL NURSING EDUCATION PROGRAM THAT PREPARES THE NURSE
21 FOR THE ROLE OF CLINICAL NURSE SPECIALIST-CERTIFIED.

22 (B) IS CERTIFIED BY A NATIONALLY ACCREDITED CERTIFICATION
23 BODY AS DEMONSTRATING ROLE AND POPULATION FOCUSED COMPETENCIES
24 FOR CLINICAL NURSE SPECIALIST-CERTIFIEDS, OR THE BOARD DETERMINES
25 THAT HE OR SHE MEETS THE STANDARDS FOR THAT CERTIFICATION.

26 (C) MAINTAINS CONTINUED COMPETENCE BY OBTAINING
27 RECERTIFICATION IN THE ROLE AND POPULATION DESCRIBED IN

1 SUBDIVISION (B) THROUGH THE NATIONAL CERTIFICATION PROGRAM, OR
2 THE BOARD DETERMINES THAT HE OR SHE MEETS THE STANDARDS FOR THAT
3 RECERTIFICATION.

4 (D) DEMONSTRATES TO THE SATISFACTION OF THE BOARD THAT HE OR
5 SHE MEETS ALL OF THE FOLLOWING:

6 (i) HAS ACQUIRED ADVANCED CLINICAL KNOWLEDGE AND SKILLS THAT
7 PRIMARILY PREPARE HIM OR HER TO PROVIDE DIRECT CARE TO PATIENTS,
8 AND ALSO TO PROVIDE INDIRECT CARE.

9 (ii) HIS OR HER PRACTICE BUILDS ON THE COMPETENCIES OF
10 REGISTERED PROFESSIONAL NURSES BY DEMONSTRATING A GREATER DEPTH
11 AND BREADTH OF KNOWLEDGE, A GREATER SYNTHESIS OF DATA, INCREASED
12 COMPLEXITY OF SKILLS AND INTERVENTIONS, AND GREATER ROLE
13 AUTONOMY.

14 (iii) IS EDUCATIONALLY PREPARED TO ASSUME RESPONSIBILITY AND
15 ACCOUNTABILITY FOR HEALTH PROMOTION OR MAINTENANCE AND THE
16 ASSESSMENT, DIAGNOSIS, AND MANAGEMENT OF PATIENT PROBLEMS,
17 INCLUDING, BUT NOT LIMITED TO, THE USE AND PRESCRIPTION OF
18 PHARMACOLOGIC AND NONPHARMACOLOGIC INTERVENTIONS.

19 (iv) HAS CLINICAL EXPERIENCE OF SUFFICIENT DEPTH AND BREADTH
20 TO PERFORM AS A LICENSEE.

21 (4) THE BOARD SHALL ISSUE AN A.P.R.N. LICENSE TO A
22 REGISTERED PROFESSIONAL NURSE WHO HOLDS A SPECIALTY
23 CERTIFICATION, ISSUED BY THE BOARD, AS A NURSE MIDWIFE, NURSE
24 PRACTITIONER, OR CLINICAL NURSE SPECIALIST IF HE OR SHE MEETS ALL
25 OF THE FOLLOWING:

26 (A) HIS OR HER LICENSE AND SPECIALTY CERTIFICATION ISSUED BY
27 THE BOARD IS CURRENT ON THE EFFECTIVE DATE OF THE AMENDATORY ACT

1 THAT ADDED THIS SECTION.

2 (B) HE OR SHE SUBMITS AN APPLICATION FOR AN A.P.R.N. LICENSE
3 IN THE 2-YEAR PERIOD BEGINNING ON THE EFFECTIVE DATE OF THE
4 AMENDATORY ACT THAT ADDED THIS SECTION.

5 (C) HIS OR HER LICENSE AND SPECIALTY CERTIFICATION ISSUED BY
6 THE BOARD IS CURRENT ON THE DATE HE OR SHE SUBMITS THE LICENSE
7 APPLICATION.

8 (D) HE OR SHE PROVIDES PROOF SATISFACTORY TO THE DEPARTMENT
9 THAT HE OR SHE HAS BEEN EMPLOYED AS A CLINICAL NURSE SPECIALIST,
10 NURSE PRACTITIONER, OR NURSE MIDWIFE FOR THE 4-YEAR PERIOD
11 IMMEDIATELY PRECEDING THE DATE HE OR SHE SUBMITS THE LICENSE
12 APPLICATION.

13 (E) ON THE DATE HE OR SHE SUBMITS THE LICENSE APPLICATION,
14 HE OR SHE MEETS ANY REQUIREMENTS FOR PROFESSIONAL CERTIFICATION
15 ESTABLISHED BY THE DEPARTMENT IN CONSULTATION WITH THE BOARD.

16 (5) THE DEPARTMENT SHALL RENEW AN A.P.R.N. LICENSE UNDER
17 THIS PART CONCURRENTLY WITH THE REGISTERED PROFESSIONAL NURSE
18 LICENSE.

19 Sec. 17211. (1) A person shall not engage in the practice of
20 nursing, ~~or~~ the practice of nursing as a licensed practical
21 nurse, **OR THE PRACTICE OF ADVANCED PRACTICE REGISTERED NURSING**
22 unless licensed or otherwise authorized by this article.

23 (2) The following words, titles, or letters or a combination
24 thereof ~~OF THEM~~, with or without qualifying words or phrases, are
25 restricted in use only to those persons authorized under this
26 part to use the terms and in a way prescribed in this part:
27 "registered professional nurse", "registered nurse", "r.n.",

"licensed practical nurse", "l.p.n.", "nurse midwife", "CERTIFIED NURSE MIDWIFE", "C.N.M.", "nurse anesthetist", "nurse practitioner", "CERTIFIED NURSE PRACTITIONER", "C.N.P.", "CLINICAL NURSE SPECIALIST-CERTIFIED", "C.N.S.-C.", "trained attendant", and "t.a.".

SEC. 17211A. (1) SUBJECT TO SECTION 17202, AN ADVANCED PRACTICE REGISTERED NURSE WHO MEETS ALL OF THE FOLLOWING MAY POSSESS, PRESCRIBE, AND ADMINISTER NONSCHEDULED PRESCRIPTION DRUGS AND CONTROLLED SUBSTANCES INCLUDED IN SCHEDULES 2 TO 5 OF PART 72:

(A) HE OR SHE HAS COMPLETED GRADUATE LEVEL PHARMACOLOGY, PATHOPHYSIOLOGY, AND PHYSICAL ASSESSMENT COURSES AND CLINICAL PRACTICUM IN THE ROLE OF A CERTIFIED NURSE MIDWIFE, CERTIFIED NURSE PRACTITIONER, OR CLINICAL NURSE SPECIALIST-CERTIFIED, AS APPLICABLE TO HIS OR HER A.P.R.N. LICENSE.

(B) UNLESS OTHERWISE PROVIDED BY RULE, HE OR SHE HAS COMPLETED THE NUMBER OF CONTACT HOURS IN PHARMACOLOGY AS PART OF THE REQUISITE CONTINUING EDUCATION FOR A CONTROLLED SUBSTANCES LICENSE UNDER PART 73, AND FOR RENEWAL OF HIS OR HER LICENSE UNDER THIS PART AS DETERMINED BY THE BOARD.

(C) HE OR SHE HOLDS A CONTROLLED SUBSTANCES LICENSE UNDER PART 73.

(D) IF HE OR SHE HAS HELD AN A.P.R.N. LICENSE ISSUED UNDER THIS PART FOR A PERIOD OF LESS THAN 2 YEARS, HE OR SHE SHALL ONLY POSSESS, PRESCRIBE, OR ADMINISTER THOSE DRUGS AND SUBSTANCES UNDER THE TERMS OF A MENTORSHIP AGREEMENT THAT MEETS ALL OF THE FOLLOWING:

1 (i) IS A WRITTEN AGREEMENT BETWEEN THE ADVANCED PRACTICE
2 REGISTERED NURSE AND A PHYSICIAN WHO IS LICENSED UNDER PART 170
3 OR 175 AND HOLDS A CONTROLLED SUBSTANCES LICENSE UNDER PART 73 OR
4 BETWEEN THE ADVANCED PRACTICE REGISTERED NURSE AND ANOTHER
5 A.P.R.N. WHO HOLDS THE SAME LICENSE UNDER THIS PART, HAS AT LEAST
6 5 YEARS OF WORK EXPERIENCE IN THAT LICENSED PROFESSION, AND HOLDS
7 A CONTROLLED SUBSTANCES LICENSE UNDER PART 73.

8 (ii) INCLUDES THE RESPONSIBILITIES AND DUTIES OF EACH PARTY
9 TO THE AGREEMENT.

10 (iii) IS FOR A TERM OF 1 YEAR AND MAY BE RENEWED BY THE
11 PARTIES FOR 1 OR MORE ADDITIONAL 1-YEAR PERIODS.

12 (iv) IS REVOCABLE BY EITHER PARTY TO THE AGREEMENT, BY
13 PROVIDING WRITTEN NOTICE TO THE OTHER PARTY AT LEAST 30 DAYS
14 BEFORE THE DATE OF THE REVOCATION.

15 (v) IS SIGNED BY EACH OF THE PARTIES TO THE AGREEMENT.

16 (E) HE OR SHE POSSESSES, PRESCRIBES, OR ADMINISTERS THE DRUG
17 OR CONTROLLED SUBSTANCE ONLY WHILE ENGAGED IN THE PRACTICE OF
18 ADVANCED PRACTICE REGISTERED NURSING.

19 (F) ALL OF THE FOLLOWING APPLY TO A PRESCRIPTION OF A
20 CONTROLLED SUBSTANCE INCLUDED IN SCHEDULES 2 TO 5 OF PART 72:

21 (i) BEFORE PRESCRIBING THE CONTROLLED SUBSTANCE, HE OR SHE
22 SHALL UNDER SECTION 7333A(2) (F) REQUEST THAT THE DEPARTMENT OF
23 COMMUNITY HEALTH PROVIDE ANY DATA INCLUDED IN THE ELECTRONIC
24 MONITORING SYSTEM ESTABLISHED UNDER SECTION 7333A(1) CONCERNING
25 THAT CONTROLLED SUBSTANCE. HE OR SHE SHALL CONSIDER THAT DATA TO
26 DETERMINE IF PRESCRIBING OR ADMINISTERING THE CONTROLLED
27 SUBSTANCE TO THE INTENDED INDIVIDUAL IS CONSISTENT WITH PATIENT

1 SAFETY AND THAT THE CONTROLLED SUBSTANCE WOULD NOT LIKELY BE
2 SUBJECT TO ABUSE BY THE INDIVIDUAL.

3 (ii) AFTER PRESCRIBING THE CONTROLLED SUBSTANCE, HE OR SHE
4 SHALL PROVIDE ANY INFORMATION ABOUT THAT PRESCRIPTION TO THE
5 DEPARTMENT OF COMMUNITY HEALTH THAT A DISPENSING PRESCRIBER IS
6 REQUIRED TO REPORT UNDER SECTION 7333A(1).

7 (2) FOR PURPOSES OF SUBSECTION (1), AN ADVANCED PRACTICE
8 REGISTERED NURSE WHO HAS HELD AN A.P.R.N. LICENSE ISSUED UNDER
9 THIS PART FOR A PERIOD OF LESS THAN 2 YEARS MAY BE A PARTY TO
10 MORE THAN 1 MENTORSHIP AGREEMENT DESCRIBED IN SUBSECTION (1)(D).

11 (3) THE DEPARTMENT SHALL ISSUE A CONTROLLED SUBSTANCES
12 LICENSE UNDER PART 73 TO AN A.P.R.N. WHO APPLIES AND IS QUALIFIED
13 UNDER SUBSECTION (1) TO POSSESS, PRESCRIBE, AND ADMINISTER
14 NONSCHEDULED PRESCRIPTION DRUGS AND CONTROLLED SUBSTANCES
15 INCLUDED IN SCHEDULES 2 TO 5 OF PART 72. THE DEPARTMENT MAY PLACE
16 A LIMITATION ON A CONTROLLED SUBSTANCES LICENSE ISSUED TO AN
17 INDIVIDUAL DESCRIBED IN SUBSECTION (1)(D) TO REFLECT THE TERMS OF
18 ANY MENTORSHIP AGREEMENT TO WHICH HE OR SHE IS A PARTY.

19 (4) THE AMENDATORY ACT THAT ADDED THIS SECTION DOES NOT
20 REQUIRE NEW OR ADDITIONAL THIRD-PARTY REIMBURSEMENT OR MANDATED
21 WORKER'S COMPENSATION BENEFITS FOR SERVICES RENDERED BY AN
22 ADVANCED PRACTICE REGISTERED NURSE AUTHORIZED TO PRESCRIBE
23 NONSCHEDULED PRESCRIPTION DRUGS AND CONTROLLED SUBSTANCES
24 INCLUDED IN SCHEDULES 2 TO 5 OF PART 72 UNDER THIS SECTION.

25 Sec. 17212. (1) ~~In~~SUBJECT TO SUBSECTION (2), IN addition to
26 acts, tasks, and functions delegated under section 16215, 17745,
27 17745a, or 17745b, a supervising physician may delegate in

1 writing to a registered professional nurse the ordering, receipt,
 2 and dispensing of complimentary starter dose drugs other than
 3 controlled substances as defined by ~~IN~~ article 7 or federal law.
 4 ~~When the IF A~~ delegated ordering, receipt, or dispensing of
 5 complimentary starter dose drugs **DESCRIBED IN THIS SUBSECTION**
 6 occurs, both the registered professional nurse's name and the
 7 supervising physician's name shall be used, recorded, or
 8 otherwise indicated in connection with each order, receipt, or
 9 dispensing. ~~As used in this subsection, "complimentary starter~~
 10 ~~dose" means that term as defined in section 17745.~~

11 (2) **AN ADVANCED PRACTICE REGISTERED NURSE ENGAGED IN THE**
 12 **PRACTICE OF ADVANCED PRACTICE REGISTERED NURSING MAY ORDER,**
 13 **RECEIVE, AND DISPENSE A COMPLIMENTARY STARTER DOSE OF A**
 14 **PRESCRIPTION DRUG OR CONTROLLED SUBSTANCE DESCRIBED IN SECTION**
 15 **17211A WITHOUT DELEGATION FROM A SUPERVISING PHYSICIAN. ONLY THE**
 16 **NAME OF THE ADVANCED PRACTICE REGISTERED NURSE SHALL BE USED,**
 17 **RECORDED, OR OTHERWISE INDICATED IN CONNECTION WITH AN ORDER,**
 18 **RECEIPT, OR DISPENSING OF A COMPLIMENTARY STARTER DOSE OF A**
 19 **PRESCRIPTION DRUG OR CONTROLLED SUBSTANCE UNDER THIS SUBSECTION.**

20 (3) ~~(2)~~ It is the intent of the legislature in enacting this
 21 section to allow a pharmaceutical manufacturer or wholesale
 22 distributor, as those terms are defined in part 177, to
 23 distribute complimentary starter dose drugs to a ~~an~~ **ADVANCED**
 24 **PRACTICE REGISTERED NURSE DESCRIBED IN SUBSECTION (2), OR TO ANY**
 25 registered professional nurse ~~as described in subsection (1),~~
 26 in compliance with section 503(d) of the federal food, drug, and
 27 cosmetic act, ~~chapter 675, 52 Stat. 1051, 21 U.S.C. USC 353.~~

SEC. 17214. (1) IN ADDITION TO THE REQUIREMENTS OF SECTION 16205, THE BOARD BY RULE MAY REQUIRE A LICENSEE SEEKING RENEWAL OF A LICENSE UNDER THIS PART TO FURNISH THE BOARD WITH SATISFACTORY EVIDENCE THAT, DURING THE 2 YEARS IMMEDIATELY PRECEDING THE DATE OF HIS OR HER APPLICATION FOR RENEWAL, THE LICENSEE COMPLETED CONTINUING EDUCATION OR COMPETENCY COURSES OR ACTIVITIES APPROVED BY THE BOARD.

(2) IF THE BOARD PROMULGATES RULES UNDER SUBSECTION (1) OR SECTION 16205 THAT REQUIRE CONTINUING EDUCATION OR COMPETENCY COURSES OR ACTIVITIES, THE BOARD SHALL PROMULGATE RULES UNDER SECTION 16204 THAT REQUIRE EACH APPLICANT FOR LICENSE RENEWAL TO COMPLETE AS PART OF THOSE CONTINUING EDUCATION OR COMPETENCY COURSES OR ACTIVITIES AN APPROPRIATE NUMBER OF HOURS OR COURSES IN PAIN AND SYMPTOM MANAGEMENT.

Sec. 17221. (1) The Michigan board of nursing is created in the department and, BEGINNING 60 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED SECTION 17221A, shall consist of the following ~~23-29~~ voting members who shall meet the requirements of part 161: 9 registered professional nurses, ~~1-2~~ CERTIFIED nurse midwife, ~~1~~ MIDWIVES, 2 nurse anesthetist ANESTHETISTS, ~~1-2~~ CERTIFIED nurse practitioner, PRACTITIONERS, 2 CLINICAL NURSE SPECIALISTS-CERTIFIED, 3 licensed practical nurses, and ~~8-9~~ public members. Three of the registered professional nurse members shall be engaged in nursing education, 1 of whom shall be in less than a baccalaureate program, 1 in a baccalaureate or higher program, and 1 in a licensed practical nurse program, and each of whom shall have a master's degree from

1 an accredited college with a major in nursing. Three of the
 2 registered professional nurse members shall be engaged in nursing
 3 practice or nursing administration, each of whom shall have a
 4 baccalaureate degree in nursing from an accredited college. Three
 5 of the registered professional nurse members shall be engaged in
 6 nursing practice or nursing administration, each of whom shall be
 7 a nonbaccalaureate registered nurse. The 3 licensed practical
 8 nurse members shall have graduated from a state approved program
 9 for the preparation of individuals to practice as licensed
 10 practical nurses. ~~The nurse midwife, the nurse anesthetist, and~~
 11 ~~the nurse practitioner~~ **EACH OF THE CERTIFIED NURSE MIDWIVES,**
 12 **CERTIFIED NURSE PRACTITIONERS, AND CLINICAL NURSE SPECIALISTS-**
 13 **CERTIFIED APPOINTED TO THE BOARD** shall each have a ~~specialty~~
 14 ~~certification~~ **AN A.P.R.N. LICENSE** issued by the department in his
 15 or her respective ~~specialty field~~ **ROLE AND EACH OF THE NURSE**
 16 **ANESTHETISTS SHALL HAVE A SPECIALTY CERTIFICATE ISSUED BY THE**
 17 **DEPARTMENT IN THAT SPECIALTY FIELD UNDER SECTION 17210.**

18 (2) The terms of office of individual members of the board
 19 created under this part, except those appointed to fill
 20 vacancies, expire 4 years after appointment on June 30 of the
 21 year in which the term expires.

22 **SEC. 17221A. (1) THE ADVANCED PRACTICE REGISTERED NURSE TASK**
 23 **FORCE IS CREATED. SUBJECT TO SUBSECTION (2), THE TASK FORCE SHALL**
 24 **CONSIST OF THE FOLLOWING 11 MEMBERS, WHO SHALL BE MEMBERS OF THE**
 25 **BOARD AND SHALL MEET THE REQUIREMENTS OF PART 161:**

26 (A) ONE REGISTERED PROFESSIONAL NURSE.

27 (B) TWO CERTIFIED NURSE MIDWIVES.

1 (C) TWO CERTIFIED NURSE PRACTITIONERS.

2 (D) TWO CLINICAL NURSE SPECIALISTS-CERTIFIED.

3 (E) TWO NURSE ANESTHETISTS CERTIFIED UNDER SECTION 17210.

4 (F) TWO PUBLIC MEMBERS.

5 (2) THE TASK FORCE CREATED IN SUBSECTION (1) SHALL DO ALL OF
6 THE FOLLOWING:

7 (A) DEVELOP AND MAKE PUBLIC GUIDELINES ON THE APPROPRIATE
8 SCOPE OF PRACTICE OF AN A.P.R.N. ACCORDING TO HIS OR HER
9 EDUCATION, TRAINING, AND EXPERIENCE. GUIDELINES DEVELOPED UNDER
10 THIS SUBDIVISION ARE NONBINDING AND ADVISORY AND SHALL ONLY
11 EXPRESS THE TASK FORCE'S CRITERIA FOR DETERMINING WHETHER AN
12 A.P.R.N. IS PRACTICING WITHIN HIS OR HER SCOPE OF PRACTICE.

13 (B) SERVE AS THE DISCIPLINARY SUBCOMMITTEE UNDER SECTION
14 16216 FOR ADVANCED PRACTICE REGISTERED NURSES AND NURSE
15 ANESTHETISTS CERTIFIED UNDER SECTION 17210.

16 (C) MAKE WRITTEN RECOMMENDATIONS TO THE BOARD ON
17 REINSTATEMENT OF A.P.R.N. LICENSES AND NOTICES OF INTENT TO DENY
18 A.P.R.N. LICENSES.

19 (D) IN ADDITION TO OR AS PART OF THE REPORT REQUIRED UNDER
20 SECTION 16143(2), FILE AN ANNUAL REPORT WITH THE BOARD AND THE
21 DEPARTMENT CONCERNING ANY MATTERS PRESCRIBED BY THE TASK FORCE
22 AND BOARD.

23 Sec. 17607. (1) An individual shall not engage in the
24 practice of speech-language pathology unless licensed under this
25 part.

26 (2) A licensee shall not perform an act, task, or function
27 within the practice of speech-language pathology unless he or she

1 is trained to perform the act, task, or function and the
2 performance of that act, task, or function is consistent with the
3 rules promulgated under section 17610(3). A speech-language
4 pathologist shall refer a patient to a person licensed in the
5 practice of medicine or osteopathic medicine and surgery if signs
6 or symptoms identified during the practice of speech-language
7 pathology cause the speech-language pathologist to suspect that
8 the patient has an underlying medical condition.

9 (3) A licensee shall perform assessment, treatment or
10 therapy, and procedures related to swallowing disorders and
11 medically related communication disorders only on patients who
12 have been referred to him or her by a person licensed in the
13 practice of medicine or osteopathic medicine and surgery **OR BY AN**
14 **ADVANCED PRACTICE REGISTERED NURSE LICENSED UNDER PART 172**
15 **ENGAGED IN THE PRACTICE OF ADVANCED PRACTICE REGISTERED NURSING.**

16 (4) Limited diagnostic testing, such as endoscopic
17 videolaryngostroboscopy, shall only be performed by a licensee in
18 collaboration with or under the supervision of a person licensed
19 in the practice of medicine or osteopathic medicine and surgery.

20 (5) A licensee shall follow procedures in which
21 collaboration among the licensee and a person licensed in the
22 practice of medicine or osteopathic medicine and surgery and
23 other licensed health care professionals is regarded to be in the
24 best interests of the patient.

25 (6) Subsection (1) does not prevent any of the following:

26 (a) An individual licensed or registered under any other
27 part or act from performing activities that are considered

1 speech-language pathology services if those activities are within
2 the individual's scope of practice and if the individual does not
3 use the titles protected under section 17603.

4 (b) The practice of speech-language pathology that is an
5 integral part of a program of study by students enrolled in an
6 accredited speech-language pathology educational program approved
7 by the board, provided that those individuals are identified as
8 students and provide speech-language pathology services only
9 while under the supervision of a licensed speech-language
10 pathologist.

11 (c) Self-care by a patient or uncompensated care by a friend
12 or family member who does not represent or hold himself or
13 herself out to be a licensed speech-language pathologist.

14 Sec. 17708. (1) "Preceptor" means a pharmacist approved by
15 the board to direct the training of an intern in an approved
16 pharmacy.

17 (2) "Prescriber" means a licensed dentist, a licensed doctor
18 of medicine, a licensed doctor of osteopathic medicine and
19 surgery, a licensed doctor of podiatric medicine and surgery, a
20 licensed optometrist certified under part 174 to administer and
21 prescribe therapeutic pharmaceutical agents, **A LICENSED ADVANCED**
22 **PRACTICE REGISTERED NURSE WHO MEETS THE REQUIREMENTS OF SECTION**
23 **17211A ENGAGED IN THE PRACTICE OF ADVANCED PRACTICE REGISTERED**
24 **NURSING**, a licensed veterinarian, or another licensed health
25 professional acting under the delegation and using, recording, or
26 otherwise indicating the name of the delegating licensed doctor
27 of medicine or licensed doctor of osteopathic medicine and

1 surgery.

2 (3) "Prescription" means an order by a prescriber to fill,
3 compound, or dispense a drug or device written and signed;
4 written or created in an electronic format, signed, and
5 transmitted by facsimile; or transmitted electronically or by
6 other means of communication. An order transmitted in other than
7 written or hard-copy form shall be electronically recorded,
8 printed, or written and immediately dated by the pharmacist, and
9 that record constitutes the original prescription. In a health
10 facility or agency licensed under article 17 or other medical
11 institution, an order for a drug or device in the patient's chart
12 constitutes for the purposes of this definition the original
13 prescription. Subject to section 17751(2) and (5), prescription
14 includes, but is not limited to, an order for a drug, not
15 including a controlled substance as defined in section 7104
16 except under circumstances described in section 17763(e), written
17 and signed; written or created in an electronic format, signed,
18 and transmitted by facsimile; or transmitted electronically or by
19 other means of communication by a physician prescriber or dentist
20 prescriber licensed to practice dentistry, medicine, or
21 osteopathic medicine and surgery in a state other than Michigan.

22 (4) "Prescription drug" means 1 or more of the following:

23 (a) A drug dispensed pursuant to a prescription.

24 (b) A drug bearing the federal legend "CAUTION: federal law
25 prohibits dispensing without prescription" or "Rx only".

26 (c) A drug designated by the board as a drug that may only
27 be dispensed pursuant to a prescription.

1 Sec. 17745. (1) Except as otherwise provided in this
2 subsection, a prescriber, **EXCEPT AN ADVANCED PRACTICE REGISTERED**
3 **NURSE**, who wishes to dispense prescription drugs shall obtain
4 from the board a drug control license for each location in which
5 the storage and dispensing of prescription drugs occur. A drug
6 control license is not necessary if the dispensing occurs in the
7 emergency department, emergency room, or trauma center of a
8 hospital licensed under article 17 or if the dispensing involves
9 only the issuance of complimentary starter dose drugs.

10 (2) A dispensing prescriber, **EXCEPT AN ADVANCED PRACTICE**
11 **REGISTERED NURSE**, shall dispense prescription drugs only to his
12 or her own patients.

13 (3) A dispensing prescriber shall include in a patient's
14 chart or clinical record a complete record, including
15 prescription drug names, dosages, and quantities, of all
16 prescription drugs dispensed directly by the dispensing
17 prescriber or indirectly under his or her delegatory authority.
18 If prescription drugs are dispensed under the prescriber's
19 delegatory authority, the delegatee who dispenses the
20 prescription drugs shall initial the patient's chart, clinical
21 record, or log of prescription drugs dispensed. In a patient's
22 chart or clinical record, a dispensing prescriber shall
23 distinguish between prescription drugs dispensed to the patient
24 and prescription drugs prescribed for the patient. A dispensing
25 prescriber shall retain information required under this
26 subsection for not less than 5 years after the information is
27 entered in the patient's chart or clinical record.

1 (4) A dispensing prescriber shall store prescription drugs
2 under conditions that will maintain their stability, integrity,
3 and effectiveness and will assure that the prescription drugs are
4 free of contamination, deterioration, and adulteration.

5 (5) A dispensing prescriber shall store prescription drugs
6 in a substantially constructed, securely lockable cabinet. Access
7 to the cabinet shall be limited to individuals authorized to
8 dispense prescription drugs in compliance with this part and
9 article 7.

10 (6) Unless otherwise requested by a patient, a dispensing
11 prescriber shall dispense a prescription drug in a safety closure
12 container that complies with the poison prevention packaging act
13 of 1970, 15 USC 1471 to 1477.

14 (7) A dispensing prescriber shall dispense a drug in a
15 container that bears a label containing all of the following
16 information:

17 (a) The name and address of the location from which the
18 prescription drug is dispensed.

19 (b) The patient's name and record number.

20 (c) The date the prescription drug was dispensed.

21 (d) The prescriber's name or, if dispensed under the
22 prescriber's delegatory authority, shall list the name of the
23 delegatee.

24 (e) The directions for use.

25 (f) The name and strength of the prescription drug.

26 (g) The quantity dispensed.

27 (h) The expiration date of the prescription drug or the

1 statement required under section 17756.

2 (8) A dispensing prescriber who dispenses, **OR AN ADVANCED**
3 **PRACTICE REGISTERED NURSE, WHILE ENGAGED IN THE PRACTICE OF**
4 **ADVANCED PRACTICE REGISTERED NURSING, WHO MEETS THE REQUIREMENTS**
5 **OF SECTION 17212 AND WHO POSSESSES, PRESCRIBES, OR ADMINISTERS,** a
6 complimentary starter dose drug to a patient shall give the
7 patient at least all of the following information, either by
8 dispensing the complimentary starter dose drug to the patient in
9 a container that bears a label containing the information or by
10 giving the patient a written document which may include, but is
11 not limited to, a preprinted insert that comes with the
12 complimentary starter dose drug, that contains the information:

13 (a) The name and strength of the complimentary starter dose
14 drug.

15 (b) Directions for the patient's use of the complimentary
16 starter dose drug.

17 (c) The expiration date of the complimentary starter dose
18 drug or the statement required under section 17756.

19 (9) The information required under subsection (8) is in
20 addition to, and does not supersede or modify, other state or
21 federal law regulating the labeling of prescription drugs.

22 (10) In addition to meeting the requirements of this part, a
23 dispensing prescriber who dispenses controlled substances shall
24 comply with section 7303a.

25 (11) The board may periodically inspect locations from which
26 prescription drugs are dispensed.

27 (12) The act, task, or function of dispensing prescription

1 drugs shall be delegated only as provided in this part and
2 sections 16215, 17048, 17076, 17212, and 17548.

3 (13) A supervising physician may delegate in writing to a
4 pharmacist practicing in a hospital pharmacy within a hospital
5 licensed under article 17 the receipt of complimentary starter
6 dose drugs other than controlled substances as defined by article
7 7 or federal law. When the delegated receipt of complimentary
8 starter dose drugs occurs, both the pharmacist's name and the
9 supervising physician's name shall be used, recorded, or
10 otherwise indicated in connection with each receipt. A pharmacist
11 described in this subsection may dispense a prescription for
12 complimentary starter dose drugs written or transmitted by
13 facsimile, electronic transmission, or other means of
14 communication by a prescriber.

15 (14) As used in this section, "complimentary starter dose"
16 means a prescription drug packaged, dispensed, and distributed in
17 accordance with state and federal law that is provided to a
18 dispensing prescriber free of charge by a manufacturer or
19 distributor and dispensed free of charge by the dispensing
20 prescriber to his or her patients.

21 Sec. 17820. (1) A person shall not engage in the practice of
22 physical therapy or practice as a physical therapist assistant
23 unless licensed or otherwise authorized under this part. A person
24 shall engage in the actual treatment of an individual only ~~upon~~
25 ~~the prescription of an individual holding~~ **IF THAT TREATMENT IS**
26 **PRESCRIBED BY AN INDIVIDUAL WHO HOLDS** a license issued under part
27 166, 170, 175, or 180, ~~or the~~ **AN A.P.R.N. LICENSE ISSUED UNDER**

PART 172, WHILE ENGAGED IN THE PRACTICE OF ADVANCED PRACTICE REGISTERED NURSING, OR AN equivalent license issued by another state.

(2) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part:

"physical therapy", "physical therapist", "physiotherapist", "physiotherapy", "registered physical therapist", "licensed physical therapist", "physical therapy technician", "physical therapist assistant", "physical therapy assistant", "physiotherapist assistant", "physiotherapy assistant", "p.t. assistant", "p.t.", "r.p.t.", "l.p.t.", "c.p.t.", "d.p.t.", "m.p.t.", "p.t.a.", "registered p.t.a.", "licensed p.t.a.", "certified p.t.a.", "c.p.t.a.", "l.p.t.a.", "r.p.t.a.", and "p.t.t.".

Sec. 17822. This part does not prohibit a hospital, as a condition of employment or the granting of staff privileges, from requiring **THAT** a physical therapist ~~to~~ **PERFORM ACTIVITIES WITHIN HIS OR HER SCOPE OF** practice in the hospital only ~~upon the prescription of an individual holding~~ **IF THAT TREATMENT IS PRESCRIBED BY AN INDIVIDUAL WHO HOLDS** a license issued under part 166, 170, 175, or 180, ~~or the~~ **AN A.P.R.N. LICENSE ISSUED UNDER PART 172, WHILE ENGAGED IN THE PRACTICE OF ADVANCED PRACTICE REGISTERED NURSING, OR AN** equivalent license issued by another state.

Sec. 18301. (1) As used in this part:

1 (a) "Occupational therapy assistant" means an individual **WHO**
2 **IS** licensed under this article to engage in practice as an
3 occupational therapy assistant.

4 (b) "Occupational therapist" means an individual **WHO IS**
5 licensed under this article to engage in the practice of
6 occupational therapy.

7 (c) "Occupational therapy services" means those services
8 provided to promote health and wellness, prevent disability,
9 preserve functional capabilities, prevent barriers, and enable or
10 improve performance in everyday activities, including, but not
11 limited to, the following:

12 (i) Establishment, remediation, or restoration of a skill or
13 ability that is impaired or not yet developed.

14 (ii) Compensation, modification, or adaptation of a person,
15 activity, or environment.

16 (iii) Evaluation of factors that affect activities of daily
17 living, instrumental activities of daily living, and other
18 activities relating to education, work, play, leisure, and social
19 participation. Those factors include, but are not limited to,
20 body functions, body structure, habits, routines, role
21 performance, behavior patterns, sensory motor skills, cognitive
22 skills, communication and interaction skills, and cultural,
23 physical, psychosocial, spiritual, developmental, environmental,
24 and socioeconomic contexts and activities that affect
25 performance.

26 (iv) Interventions and procedures, including, but not limited
27 to, any of the following:

1 (A) Task analysis and therapeutic use of occupations,
2 exercises, and activities.

3 (B) Training in self-care, self-management, home management,
4 and community or work reintegration.

5 (C) Development remediation, or compensation of client
6 factors such as body functions and body structure.

7 (D) Education and training.

8 (E) Care coordination, case management, transition, and
9 consultative services.

10 (F) Modification of environments and adaptation processes
11 such as the application of ergonomic and safety principles.

12 (G) Assessment, design, fabrication, application, fitting,
13 and training in rehabilitative and assistive technology, adaptive
14 devices, and low temperature orthotic devices, and training in
15 the use of prosthetic devices. For the purposes of this sub-
16 subparagraph, the design and fabrication of low temperature
17 orthotic devices does not include permanent orthotics.

18 (H) Assessment, recommendation, and training in techniques
19 to enhance safety, functional mobility, and community mobility
20 such as wheelchair management and mobility.

21 (I) Management of feeding, eating, and swallowing.

22 (J) Application of physical agent modalities and use of a
23 range of specific therapeutic procedures, including, but not
24 limited to, techniques to enhance sensory-motor, perceptual, and
25 cognitive processing, manual therapy techniques, and adjunctive
26 and preparatory activities.

27 (K) Providing vision therapy services or low vision

1 rehabilitation services, if those services are provided pursuant
2 to a referral or prescription from, or under the supervision or
3 comanagement of, a physician licensed under part 170 or 175 or an
4 optometrist licensed under part 174 **OR PURSUANT TO A REFERRAL OR**
5 **PRESCRIPTION FROM AN ADVANCED PRACTICE REGISTERED NURSE, LICENSED**
6 **UNDER PART 172, WHILE ENGAGED IN THE PRACTICE OF ADVANCED**
7 **PRACTICE REGISTERED NURSING.**

8 (d) "Practice as an occupational therapy assistant" means
9 the practice of occupational therapy under the supervision of an
10 occupational therapist licensed under this article.

11 (e) "Practice of occupational therapy" means the therapeutic
12 use of everyday life occupations and occupational therapy
13 services to aid individuals or groups to participate in
14 meaningful roles and situations in the home, school, workplace,
15 community, and other settings, to promote health and wellness
16 through research and practice, and to serve those individuals or
17 groups who have or are at risk for developing an illness, injury,
18 disease, disorder, condition, impairment, disability, activity
19 limitation, or participation restriction. The practice of
20 occupational therapy addresses the physical, cognitive,
21 psychosocial, sensory, and other aspects of performance in a
22 variety of contexts to support engagement in everyday life
23 activities that affect a person's health, well-being, and quality
24 of life throughout his or her life span. The practice of
25 occupational therapy does not include any of the following:

26 (i) The practice of medicine or osteopathic medicine and
27 surgery or medical diagnosis or treatment.

1 (ii) The practice of physical therapy.

2 (iii) The practice of optometry.

3 (2) In addition to the definitions in this part, article 1
4 contains general definitions and principles of construction
5 applicable to all articles in this code and part 161 contains
6 definitions applicable to this part.

7 Sec. 20201. (1) A health facility or agency that provides
8 services directly to patients or residents and is licensed under
9 this article shall adopt a policy describing the rights and
10 responsibilities of patients or residents admitted to the health
11 facility or agency. Except for a licensed health maintenance
12 organization, which shall comply with chapter 35 of the insurance
13 code of 1956, 1956 PA 218, MCL 500.3501 to 500.3580, the policy
14 shall be posted at a public place in the health facility or
15 agency and shall be provided to each member of the health
16 facility or agency staff. Patients or residents shall be treated
17 in accordance with the policy.

18 (2) The policy describing the rights and responsibilities of
19 patients or residents required under subsection (1) shall
20 include, as a minimum, all of the following:

21 (a) A patient or resident shall not be denied appropriate
22 care on the basis of race, religion, color, national origin, sex,
23 age, disability, marital status, sexual preference, or source of
24 payment.

25 (b) An individual who is or has been a patient or resident
26 is entitled to inspect, or receive for a reasonable fee, a copy
27 of his or her medical record upon request in accordance with the

1 medical records access act, 2004 PA 47, MCL 333.26261 to
2 333.26271. Except as otherwise permitted or required under the
3 health insurance portability and accountability act of 1996,
4 Public Law 104-191, or regulations promulgated under that act, 45
5 CFR parts 160 and 164, a third party shall not be given a copy of
6 the patient's or resident's medical record without prior
7 authorization of the patient or resident.

8 (c) A patient or resident is entitled to confidential
9 treatment of personal and medical records, and may refuse their
10 release to a person outside the health facility or agency except
11 as required because of a transfer to another health care
12 facility, as required by law or third party payment contract, or
13 as permitted or required under the health insurance portability
14 and accountability act of 1996, Public Law 104-191, or
15 regulations promulgated under that act, 45 CFR parts 160 and 164.

16 (d) A patient or resident is entitled to privacy, to the
17 extent feasible, in treatment and in caring for personal needs
18 with consideration, respect, and full recognition of his or her
19 dignity and individuality.

20 (e) A patient or resident is entitled to receive adequate
21 and appropriate care, and to receive, from the appropriate
22 individual within the health facility or agency, information
23 about his or her medical condition, proposed course of treatment,
24 and prospects for recovery, in terms that the patient or resident
25 can understand, unless medically contraindicated as documented in
26 the medical record by the attending physician or a physician's
27 assistant to whom the physician has delegated the performance of

1 medical care services.

2 (f) A patient or resident is entitled to refuse treatment to
3 the extent provided by law and to be informed of the consequences
4 of that refusal. If a refusal of treatment prevents a health
5 facility or agency or its staff from providing appropriate care
6 according to ethical and professional standards, the relationship
7 with the patient or resident may be terminated upon reasonable
8 notice.

9 (g) A patient or resident is entitled to exercise his or her
10 rights as a patient or resident and as a citizen, and to this end
11 may present grievances or recommend changes in policies and
12 services on behalf of himself or herself or others to the health
13 facility or agency staff, to governmental officials, or to
14 another person of his or her choice within or outside the health
15 facility or agency, free from restraint, interference, coercion,
16 discrimination, or reprisal. A patient or resident is entitled to
17 information about the health facility's or agency's policies and
18 procedures for initiation, review, and resolution of patient or
19 resident complaints.

20 (h) A patient or resident is entitled to information
21 concerning an experimental procedure proposed as a part of his or
22 her care and has the right to refuse to participate in the
23 experimental procedure without jeopardizing his or her continuing
24 care.

25 (i) A patient or resident is entitled to receive and examine
26 an explanation of his or her bill regardless of the source of
27 payment and to receive, upon request, information relating to

1 financial assistance available through the health facility or
2 agency.

3 (j) A patient or resident is entitled to know who is
4 responsible for and who is providing his or her direct care, is
5 entitled to receive information concerning his or her continuing
6 health needs and alternatives for meeting those needs, and to be
7 involved in his or her discharge planning, if appropriate.

8 (k) A patient or resident is entitled to associate and have
9 private communications and consultations with his or her
10 physician or a physician's assistant to whom the physician has
11 delegated the performance of medical care services, attorney, or
12 any other person of his or her choice and to send and receive
13 personal mail unopened on the same day it is received at the
14 health facility or agency, unless medically contraindicated as
15 documented in the medical record by the attending physician or a
16 physician's assistant to whom the physician has delegated the
17 performance of medical care services. A patient's or resident's
18 civil and religious liberties, including the right to independent
19 personal decisions and the right to knowledge of available
20 choices, shall not be infringed and the health facility or agency
21 shall encourage and assist in the fullest possible exercise of
22 these rights. A patient or resident may meet with, and
23 participate in, the activities of social, religious, and
24 community groups at his or her discretion, unless medically
25 contraindicated as documented in the medical record by the
26 attending physician or a physician's assistant to whom the
27 physician has delegated the performance of medical care services.

1 (l) A patient or resident is entitled to be free from mental
2 and physical abuse and from physical and chemical restraints,
3 except those restraints authorized in writing by the attending
4 physician, **BY AN ADVANCED PRACTICE REGISTERED NURSE ENGAGED IN**
5 **THE PRACTICE OF ADVANCED PRACTICE REGISTERED NURSING,** or BY a
6 physician's assistant to whom the physician has delegated the
7 performance of medical care services, for a specified and limited
8 time or as are necessitated by an emergency to protect the
9 patient or resident from injury to self or others, in which case
10 the restraint may only be applied by a qualified professional who
11 shall set forth in writing the circumstances requiring the use of
12 restraints and who shall promptly report the action to the
13 attending physician, ~~or physician's assistant,~~ **OR ADVANCED**
14 **PRACTICE REGISTERED NURSE WHO AUTHORIZED THE RESTRAINT.** In case
15 of a chemical restraint, a physician shall be consulted within 24
16 hours after the commencement of the chemical restraint.

17 (m) A patient or resident is entitled to be free from
18 performing services for the health facility or agency that are
19 not included for therapeutic purposes in the plan of care.

20 (n) A patient or resident is entitled to information about
21 the health facility or agency rules and regulations affecting
22 patient or resident care and conduct.

23 (o) A patient or resident is entitled to adequate and
24 appropriate pain and symptom management as a basic and essential
25 element of his or her medical treatment.

26 (3) The following additional requirements for the policy
27 described in subsection (2) apply to licensees under parts 213

1 and 217:

2 (a) The policy shall be provided to each nursing home
3 patient or home for the aged resident upon admission, and the
4 staff of the facility shall be trained and involved in the
5 implementation of the policy.

6 (b) Each nursing home patient may associate and communicate
7 privately with persons of his or her choice. Reasonable, regular
8 visiting hours, which shall be not less than 8 hours per day, and
9 which shall take into consideration the special circumstances of
10 each visitor, shall be established for patients to receive
11 visitors. A patient may be visited by the patient's attorney or
12 by representatives of the departments named in section 20156,
13 during other than established visiting hours. Reasonable privacy
14 shall be afforded for visitation of a patient who shares a room
15 with another patient. Each patient shall have reasonable access
16 to a telephone. A married nursing home patient or home for the
17 aged resident is entitled to meet privately with his or her
18 spouse in a room that assures privacy. If both spouses are
19 residents in the same facility, they are entitled to share a room
20 unless medically contraindicated and documented in the medical
21 record by the attending physician or a physician's assistant to
22 whom the physician has delegated the performance of medical care
23 services.

24 (c) A nursing home patient or home for the aged resident is
25 entitled to retain and use personal clothing and possessions as
26 space permits, unless to do so would infringe upon the rights of
27 other patients or residents, or unless medically contraindicated

1 as documented in the medical record by the attending physician or
2 a physician's assistant to whom the physician has delegated the
3 performance of medical care services. Each nursing home patient
4 or home for the aged resident shall be provided with reasonable
5 space. At the request of a patient, a nursing home shall provide
6 for the safekeeping of personal effects, funds, and other
7 property of a patient in accordance with section 21767, except
8 that a nursing home is not required to provide for the
9 safekeeping of a property that would impose an unreasonable
10 burden on the nursing home.

11 (d) A nursing home patient or home for the aged resident is
12 entitled to the opportunity to participate in the planning of his
13 or her medical treatment. The attending physician or a
14 physician's assistant to whom the physician has delegated the
15 performance of medical care services shall fully inform the
16 nursing home patient of the patient's medical condition unless
17 medically contraindicated as documented in the medical record by
18 a physician or a physician's assistant to whom the physician has
19 delegated the performance of medical care services. Each nursing
20 home patient shall be afforded the opportunity to discharge
21 himself or herself from the nursing home.

22 (e) A home for the aged resident may be transferred or
23 discharged only for medical reasons, for his or her welfare or
24 that of other residents, or for nonpayment of his or her stay,
25 except as provided by title XVIII or title XIX. A nursing home
26 patient may be transferred or discharged only as provided in
27 sections 21773 to 21777. A nursing home patient or home for the

1 aged resident is entitled to be given reasonable advance notice
2 to ensure orderly transfer or discharge. Those actions shall be
3 documented in the medical record.

4 (f) A nursing home patient or home for the aged resident is
5 entitled to be fully informed before or at the time of admission
6 and during stay of services available in the facility, and of the
7 related charges including any charges for services not covered
8 under title XVIII, or not covered by the facility's basic per
9 diem rate. The statement of services provided by the facility
10 shall be in writing and shall include those required to be
11 offered on an as-needed basis.

12 (g) A nursing home patient or home for the aged resident is
13 entitled to manage his or her own financial affairs, or to have
14 at least a quarterly accounting of personal financial
15 transactions undertaken in his or her behalf by the facility
16 during a period of time the patient or resident has delegated
17 those responsibilities to the facility. In addition, a patient or
18 resident is entitled to receive each month from the facility an
19 itemized statement setting forth the services paid for by or on
20 behalf of the patient and the services rendered by the facility.
21 The admission of a patient to a nursing home does not confer on
22 the nursing home or its owner, administrator, employees, or
23 representatives the authority to manage, use, or dispose of a
24 patient's property.

25 (h) A nursing home patient or a person authorized by the
26 patient in writing may inspect and copy the patient's personal
27 and medical records. The records shall be made available for

1 inspection and copying by the nursing home within a reasonable
2 time, not exceeding 1 week, after the receipt of a written
3 request.

4 (i) If a nursing home patient desires treatment by a
5 licensed member of the healing arts, the treatment shall be made
6 available unless it is medically contraindicated, and the medical
7 contraindication is justified in the patient's medical record by
8 the attending physician or a physician's assistant to whom the
9 physician has delegated the performance of medical care services.

10 (j) A nursing home patient has the right to have his or her
11 parents, if a minor, or his or her spouse, next of kin, or
12 patient's representative, if an adult, stay at the facility 24
13 hours a day if the patient is considered terminally ill by the
14 physician responsible for the patient's care or a physician's
15 assistant to whom the physician has delegated the performance of
16 medical care services.

17 (k) Each nursing home patient shall be provided with meals
18 that meet the recommended dietary allowances for that patient's
19 age and sex and that may be modified according to special dietary
20 needs or ability to chew.

21 (l) Each nursing home patient has the right to receive
22 representatives of approved organizations as provided in section
23 21763.

24 (4) A nursing home, its owner, administrator, employee, or
25 representative shall not discharge, harass, or retaliate or
26 discriminate against a patient because the patient has exercised
27 a right protected under this section.

1 (5) In the case of a nursing home patient, the rights
2 enumerated in subsection (2)(c), (g), and (k) and subsection
3 (3)(d), (g), and (h) may be exercised by the patient's
4 representative.

5 (6) A nursing home patient or home for the aged resident is
6 entitled to be fully informed, as evidenced by the patient's or
7 resident's written acknowledgment, before or at the time of
8 admission and during stay, of the policy required by this
9 section. The policy shall provide that if a patient or resident
10 is adjudicated incompetent and not restored to legal capacity,
11 the rights and responsibilities set forth in this section shall
12 be exercised by a person designated by the patient or resident.
13 The health facility or agency shall provide proper forms for the
14 patient or resident to provide for the designation of this person
15 at the time of admission.

16 (7) This section does not prohibit a health facility or
17 agency from establishing and recognizing additional patients'
18 rights.

19 (8) As used in this section:

20 (a) "Patient's representative" means that term as defined in
21 section 21703.

22 (b) "Title XVIII" means title XVIII of the social security
23 act, 42 USC 1395 to 1395kkk-1.

24 (c) "Title XIX" means title XIX of the social security act,
25 42 USC 1396 to 1396w-5.