

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4408

(As amended November 2, 2017)

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16221 and 16226 (MCL 333.16221 and 333.16226),
section 16221 as amended by 2017 PA 75 and section 16226 as amended
by 2017 PA 81, and by adding sections 7303b and 7303c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 SEC. 7303B. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION,
2 <<BEGINNING JUNE 1, 2018,>>
3 A PRESCRIBER SHALL COMPLY WITH ALL OF THE FOLLOWING BEFORE ISSUING
4 FOR A MINOR THE FIRST PRESCRIPTION IN A SINGLE COURSE OF TREATMENT
5 FOR A CONTROLLED SUBSTANCE CONTAINING AN OPIOID, REGARDLESS OF
6 WHETHER THE PRESCRIBER MODIFIES THE DOSAGE DURING THE COURSE OF
7 TREATMENT:
8 (A) DISCUSS ALL OF THE FOLLOWING WITH THE MINOR, AND WITH THE

1 MINOR'S PARENT OR GUARDIAN OR WITH ANOTHER ADULT AUTHORIZED TO
2 CONSENT TO THE MINOR'S MEDICAL TREATMENT:

3 (i) THE RISKS OF ADDICTION AND OVERDOSE ASSOCIATED WITH THE
4 CONTROLLED SUBSTANCE.

5 (ii) THE INCREASED RISK OF ADDICTION TO A CONTROLLED SUBSTANCE
6 TO AN INDIVIDUAL WHO IS SUFFERING FROM BOTH MENTAL AND SUBSTANCE
7 ABUSE DISORDERS.

8 (iii) THE DANGER OF TAKING A CONTROLLED SUBSTANCE CONTAINING
9 AN OPIOID WITH A BENZODIAZEPINE, ALCOHOL, OR ANOTHER CENTRAL
10 NERVOUS SYSTEM DEPRESSANT.

11 (iv) ANY OTHER INFORMATION IN THE PATIENT COUNSELING
12 INFORMATION SECTION OF THE LABEL FOR THE CONTROLLED SUBSTANCE THAT
13 IS REQUIRED UNDER 21 CFR 201.57 (C) (18).

14 (B) OBTAIN THE SIGNATURE OF THE MINOR'S PARENT OR GUARDIAN,
15 OR, SUBJECT TO SUBSECTION (3), THE SIGNATURE OF ANOTHER ADULT
16 AUTHORIZED TO CONSENT TO THE MINOR'S MEDICAL TREATMENT, ON A START
17 TALKING CONSENT FORM. THE PRESCRIBER SHALL INCLUDE THE SIGNED START
18 TALKING CONSENT FORM IN THE MINOR'S MEDICAL RECORD.

19 (2) SUBSECTION (1) DOES NOT APPLY IN ANY OF THE FOLLOWING
20 CIRCUMSTANCES:

21 (A) IF THE MINOR'S TREATMENT IS ASSOCIATED WITH OR INCIDENT TO
22 A MEDICAL EMERGENCY.

23 (B) IF THE MINOR'S TREATMENT IS ASSOCIATED WITH OR INCIDENT TO
24 A SURGERY, REGARDLESS OF WHETHER THE SURGERY IS PERFORMED ON AN
25 INPATIENT OR OUTPATIENT BASIS.

26 (C) IF, IN THE PRESCRIBER'S PROFESSIONAL JUDGMENT, FULFILLING
27 THE REQUIREMENTS OF SUBSECTION (1) WOULD BE DETRIMENTAL TO THE

1 MINOR'S HEALTH OR SAFETY.

2 (D) IF THE MINOR'S TREATMENT IS RENDERED IN A HOSPICE AS THAT
3 TERM IS DEFINED IN SECTION 20106 OR AN ONCOLOGY DEPARTMENT OF A
4 HOSPITAL THAT IS LICENSED UNDER ARTICLE 17.

5 (E) IF THE PRESCRIBER IS ISSUING THE PRESCRIPTION FOR THE
6 MINOR AT THE TIME OF DISCHARGE FROM A FACILITY DESCRIBED IN
7 SUBDIVISION (D).

8 (F) IF THE CONSENT OF THE MINOR'S PARENT OR GUARDIAN IS NOT
9 LEGALLY REQUIRED FOR THE MINOR TO OBTAIN TREATMENT.

10 (3) IF THE INDIVIDUAL SIGNING A START TALKING CONSENT FORM IS
11 ANOTHER ADULT AUTHORIZED TO CONSENT TO THE MINOR'S MEDICAL
12 TREATMENT, THE PRESCRIBER SHALL NOT PRESCRIBE MORE THAN A SINGLE,
13 72-HOUR SUPPLY OF THE CONTROLLED SUBSTANCE DESCRIBED IN SUBSECTION
14 (1) TO THE MINOR.

15 (4) A START TALKING CONSENT FORM MUST BE ON A FORM THAT IS
16 SEPARATE FROM ANY OTHER DOCUMENT THAT A PRESCRIBER USES TO OBTAIN
17 THE INFORMED CONSENT FOR THE TREATMENT OF A MINOR AND MUST CONTAIN
18 ALL OF THE FOLLOWING:

19 (A) THE NAME AND QUANTITY OF THE CONTROLLED SUBSTANCE BEING
20 PRESCRIBED FOR THE MINOR AND THE AMOUNT OF THE INITIAL DOSE.

21 (B) A STATEMENT INDICATING THAT A CONTROLLED SUBSTANCE IS A
22 DRUG OR OTHER SUBSTANCE THAT THE UNITED STATES DRUG ENFORCEMENT
23 ADMINISTRATION HAS IDENTIFIED AS HAVING A POTENTIAL FOR ABUSE.

24 (C) A STATEMENT CERTIFYING THAT THE PRESCRIBER DISCUSSED WITH
25 THE MINOR, AND WITH THE MINOR'S PARENT OR GUARDIAN OR WITH ANOTHER
26 ADULT AUTHORIZED TO CONSENT TO THE MINOR'S MEDICAL TREATMENT, THE
27 TOPICS DESCRIBED IN SUBSECTION (1).

House Bill No. 4408 as amended November 2, 2017

(D) THE NUMBER OF REFILLS, IF ANY, THAT ARE AUTHORIZED BY THE PRESCRIPTION.

(E) A SPACE FOR THE SIGNATURE OF THE MINOR'S PARENT OR GUARDIAN, OR THE SIGNATURE OF ANOTHER ADULT AUTHORIZED TO CONSENT TO THE MINOR'S MEDICAL TREATMENT, AND A SPACE TO INDICATE THE DATE THAT THE MINOR'S PARENT OR GUARDIAN, OR ANOTHER ADULT AUTHORIZED TO CONSENT TO THE MINOR'S MEDICAL TREATMENT, SIGNED THE FORM.

(5) AS USED IN THIS SECTION:

(A) "ANOTHER ADULT AUTHORIZED TO CONSENT TO THE MINOR'S MEDICAL TREATMENT" MEANS AN ADULT TO WHOM A MINOR'S PARENT OR GUARDIAN HAS GIVEN WRITTEN AUTHORIZATION TO CONSENT TO THE MINOR'S MEDICAL TREATMENT.

(B) "MEDICAL EMERGENCY" MEANS A SITUATION THAT, IN THE PRESCRIBER'S GOOD-FAITH MEDICAL JUDGMENT, CREATES AN IMMEDIATE THREAT OF SERIOUS RISK TO THE LIFE OR PHYSICAL HEALTH OF THE MINOR.

(C) "MINOR" MEANS AN INDIVIDUAL UNDER 18 YEARS OF AGE WHO IS NOT EMANCIPATED UNDER SECTION 4 OF 1968 PA 293, MCL 722.4.

(D) "START TALKING CONSENT FORM" MEANS THE FORM DESCRIBED IN SUBSECTION (4).

SEC. 7303C. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, <<BEGINNING JUNE 1, 2018,>> BEFORE A CONTROLLED SUBSTANCE THAT IS AN OPIOID IS PRESCRIBED TO A PATIENT, A LICENSED PRESCRIBER OR ANOTHER HEALTH PROFESSIONAL SHALL PROVIDE INFORMATION ON ALL OF THE FOLLOWING TO THE PATIENT OR THE PATIENT'S REPRESENTATIVE:

(A) THE DANGER OF OPIOID ADDICTION.

(B) HOW TO PROPERLY DISPOSE OF AN EXPIRED, UNUSED, OR UNWANTED CONTROLLED SUBSTANCE.

1 (C) THAT THE DELIVERY OF A CONTROLLED SUBSTANCE IS A FELONY
2 UNDER MICHIGAN LAW.

3 (D) IF THE PATIENT IS PREGNANT OR IS A FEMALE OF REPRODUCTIVE
4 AGE, THE SHORT- AND LONG-TERM EFFECTS OF EXPOSING A FETUS TO A
5 CONTROLLED SUBSTANCE, INCLUDING, BUT NOT LIMITED TO, NEONATAL
6 ABSTINENCE SYNDROME.

7 (2) AFTER PROVIDING THE INFORMATION DESCRIBED IN SUBSECTION
8 (1), THE LICENSED PRESCRIBER OR OTHER HEALTH PROFESSIONAL SHALL
9 OBTAIN THE SIGNATURE OF THE PATIENT OR THE PATIENT'S REPRESENTATIVE
10 ON A FORM PRESCRIBED BY THE DEPARTMENT OF HEALTH AND HUMAN
11 SERVICES, INDICATING THAT THE PATIENT OR THE PATIENT'S
12 REPRESENTATIVE HAS RECEIVED THE INFORMATION DESCRIBED IN SUBSECTION
13 (1). THE LICENSED PRESCRIBER OR OTHER HEALTH PROFESSIONAL SHALL
14 INCLUDE THE SIGNED FORM IN THE PATIENT'S MEDICAL OR CLINICAL
15 RECORD.

16 (3) THIS SECTION DOES NOT APPLY IF THE CONTROLLED SUBSTANCE
17 DESCRIBED IN SUBSECTION (1) IS PRESCRIBED FOR INPATIENT USE.

18 (4) AS USED IN THIS SECTION:

19 (A) "HEALTH PROFESSIONAL" MEANS AN INDIVIDUAL WHO IS LICENSED,
20 REGISTERED, OR OTHERWISE AUTHORIZED TO ENGAGE IN A HEALTH
21 PROFESSION UNDER ARTICLE 15.

22 (B) "PATIENT" MEANS AN INDIVIDUAL WHO RECEIVES HEALTH CARE
23 FROM THE LICENSED PRESCRIBER.

24 (C) "PATIENT'S REPRESENTATIVE" MEANS A GUARDIAN OF A PATIENT,
25 IF APPOINTED, OR A PARENT, GUARDIAN, OR PERSON ACTING IN LOCO
26 PARENTIS, IF THE PATIENT IS A MINOR, UNLESS THE MINOR LAWFULLY
27 OBTAINED HEALTH CARE WITHOUT THE CONSENT OR NOTIFICATION OF A

1 **PARENT, GUARDIAN, OR OTHER PERSON ACTING IN LOCO PARENTIS.**

2 Sec. 16221. The department shall investigate any allegation
3 that 1 or more of the grounds for disciplinary subcommittee action
4 under this section exist, and may investigate activities related to
5 the practice of a health profession by a licensee, a registrant, or
6 an applicant for licensure or registration. The department may hold
7 hearings, administer oaths, and order the taking of relevant
8 testimony. After its investigation, the department shall provide a
9 copy of the administrative complaint to the appropriate
10 disciplinary subcommittee. The disciplinary subcommittee shall
11 proceed under section 16226 if it finds that 1 or more of the
12 following grounds exist:

13 (a) Except as otherwise specifically provided in this section,
14 a violation of general duty, consisting of negligence or failure to
15 exercise due care, including negligent delegation to or supervision
16 of employees or other individuals, whether or not injury results,
17 or any conduct, practice, or condition that impairs, or may impair,
18 the ability to safely and skillfully engage in the practice of the
19 health profession.

20 (b) Personal disqualifications, consisting of 1 or more of the
21 following:

22 (i) Incompetence.

23 (ii) Subject to sections 16165 to 16170a, substance use
24 disorder as defined in section 100d of the mental health code, 1974
25 PA 258, MCL 330.1100d.

26 (iii) Mental or physical inability reasonably related to and
27 adversely affecting the licensee's or registrant's ability to

1 practice in a safe and competent manner.

2 (iv) Declaration of mental incompetence by a court of
3 competent jurisdiction.

4 (v) Conviction of a misdemeanor punishable by imprisonment for
5 a maximum term of 2 years; conviction of a misdemeanor involving
6 the illegal delivery, possession, or use of a controlled substance;
7 or conviction of any felony other than a felony listed or described
8 in another subparagraph of this subdivision. A certified copy of
9 the court record is conclusive evidence of the conviction.

10 (vi) Lack of good moral character.

11 (vii) Conviction of a criminal offense under section 520e or
12 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and
13 750.520g. A certified copy of the court record is conclusive
14 evidence of the conviction.

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

18 (ix) Conviction of a misdemeanor or felony involving fraud in
19 obtaining or attempting to obtain fees related to the practice of a
20 health profession. A certified copy of the court record is
21 conclusive evidence of the conviction.

22 (x) Final adverse administrative action by a licensure,
23 registration, disciplinary, or certification board involving the
24 holder of, or an applicant for, a license or registration regulated
25 by another state or a territory of the United States, by the United
26 States military, by the federal government, or by another country.
27 A certified copy of the record of the board is conclusive evidence

1 of the final action.

2 (xi) Conviction of a misdemeanor that is reasonably related to
3 or that adversely affects the licensee's or registrant's ability to
4 practice in a safe and competent manner. A certified copy of the
5 court record is conclusive evidence of the conviction.

6 (xii) Conviction of a violation of section 430 of the Michigan
7 penal code, 1931 PA 328, MCL 750.430. A certified copy of the court
8 record is conclusive evidence of the conviction.

9 (xiii) Conviction of a criminal offense under section 83, 84,
10 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal
11 code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321,
12 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the
13 court record is conclusive evidence of the conviction.

14 (xiv) Conviction of a violation of section 136 or 136a of the
15 Michigan penal code, 1931 PA 328, MCL 750.136 and 750.136a. A
16 certified copy of the court record is conclusive evidence of the
17 conviction.

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

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

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

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

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

1 lawful diagnostic or therapeutic purposes.

2 (d) Except as otherwise specifically provided in this section,
3 unethical business practices, consisting of 1 or more of the
4 following:

5 (i) False or misleading advertising.

6 (ii) Dividing fees for referral of patients or accepting
7 kickbacks on medical or surgical services, appliances, or
8 medications purchased by or in behalf of patients.

9 (iii) Fraud or deceit in obtaining or attempting to obtain
10 third party reimbursement.

11 (e) Except as otherwise specifically provided in this section,
12 unprofessional conduct, consisting of 1 or more of the following:

13 (i) Misrepresentation to a consumer or patient or in obtaining
14 or attempting to obtain third party reimbursement in the course of
15 professional practice.

16 (ii) Betrayal of a professional confidence.

17 (iii) Promotion for personal gain of an unnecessary drug,
18 device, treatment, procedure, or service.

19 (iv) Either of the following:

20 (A) A requirement by a licensee other than a physician or a
21 registrant that an individual purchase or secure a drug, device,
22 treatment, procedure, or service from another person, place,
23 facility, or business in which the licensee or registrant has a
24 financial interest.

25 (B) A referral by a physician for a designated health service
26 that violates 42 USC 1395nn or a regulation promulgated under that
27 section. For purposes of this subdivision, 42 USC 1395nn and the

1 regulations promulgated under that section as they exist on June 3,
2 2002 are incorporated by reference. A disciplinary subcommittee
3 shall apply 42 USC 1395nn and the regulations promulgated under
4 that section regardless of the source of payment for the designated
5 health service referred and rendered. If 42 USC 1395nn or a
6 regulation promulgated under that section is revised after June 3,
7 2002, the department shall officially take notice of the revision.
8 Within 30 days after taking notice of the revision, the department
9 shall decide whether or not the revision pertains to referral by
10 physicians for designated health services and continues to protect
11 the public from inappropriate referrals by physicians. If the
12 department decides that the revision does both of those things, the
13 department may promulgate rules to incorporate the revision by
14 reference. If the department does promulgate rules to incorporate
15 the revision by reference, the department shall not make any
16 changes to the revision. As used in this sub-subparagraph,
17 "designated health service" means that term as defined in 42 USC
18 1395nn and the regulations promulgated under that section and
19 "physician" means that term as defined in sections 17001 and 17501.

20 (v) For a physician who makes referrals under 42 USC 1395nn or
21 a regulation promulgated under that section, refusing to accept a
22 reasonable proportion of patients eligible for Medicaid and
23 refusing to accept payment from Medicaid or Medicare as payment in
24 full for a treatment, procedure, or service for which the physician
25 refers the individual and in which the physician has a financial
26 interest. A physician who owns all or part of a facility in which
27 he or she provides surgical services is not subject to this

1 subparagraph if a referred surgical procedure he or she performs in
2 the facility is not reimbursed at a minimum of the appropriate
3 Medicaid or Medicare outpatient fee schedule, including the
4 combined technical and professional components.

5 (vi) Any conduct by a health professional with a patient while
6 he or she is acting within the health profession for which he or
7 she is licensed or registered, including conduct initiated by a
8 patient or to which the patient consents, that is sexual or may
9 reasonably be interpreted as sexual, including, but not limited to,
10 sexual intercourse, kissing in a sexual manner, or touching of a
11 body part for any purpose other than appropriate examination,
12 treatment, or comfort.

13 (vii) Offering to provide practice-related services, such as
14 drugs, in exchange for sexual favors.

15 (f) Failure to notify under section 16222(3) or (4).

16 (g) Failure to report a change of name or mailing address as
17 required in section 16192.

18 (h) A violation, or aiding or abetting in a violation, of this
19 article or of a rule promulgated under this article.

20 (i) Failure to comply with a subpoena issued pursuant to this
21 part, failure to respond to a complaint issued under this article,
22 article 7, or article 8, failure to appear at a compliance
23 conference or an administrative hearing, or failure to report under
24 section 16222(1) or 16223.

25 (j) Failure to pay an installment of an assessment levied
26 under the insurance code of 1956, 1956 PA 218, MCL 500.100 to
27 500.8302, within 60 days after notice by the appropriate board.

(k) A violation of section 17013 or 17513.

(l) Failure to meet 1 or more of the requirements for licensure or registration under section 16174.

(m) A violation of section 17015, 17015a, 17017, 17515, or 17517.

(n) A violation of section 17016 or 17516.

(o) Failure to comply with section 9206(3).

(p) A violation of section 5654 or 5655.

(q) A violation of section 16274.

(r) A violation of section 17020 or 17520.

(s) A violation of the medical records access act, 2004 PA 47, MCL 333.26261 to 333.26271.

(t) A violation of section 17764(2).

(u) Failure to comply with the terms of a practice agreement described in section 17047(2)(a) or (b), 17547(2)(a) or (b), or 18047(2)(a) or (b).

(V) A VIOLATION OF SECTION 7303B.

Sec. 16226. (1) After finding the existence of 1 or more of the grounds for disciplinary subcommittee action listed in section 16221, a disciplinary subcommittee shall impose 1 or more of the following sanctions for each violation:

Violations of Section 16221

Sanctions

Subdivision (a), (b) (i),	Probation, limitation, denial,
(b) (ii), (b) (iii), (b) (iv),	suspension, revocation,
(b) (v), (b) (vi), (b) (vii),	permanent revocation,
(b) (ix), (b) (x), (b) (xi),	restitution, or fine.
or (b) (xii)	

1
2 Subdivision (b) (*viii*) Revocation, permanent revocation,
3 or denial.
4
5 Subdivision (b) (*xiii*) Permanent revocation
6 for a violation described in
7 subsection (5); otherwise,
8 probation, limitation, denial,
9 suspension, revocation,
10 restitution, or fine.
11
12 Subdivision (b) (*xiv*) Permanent revocation.
13
14 Subdivision (c) (*i*) Denial, revocation, suspension,
15 probation, limitation, or fine.
16
17 Subdivision (c) (*ii*) Denial, suspension, revocation,
18 restitution, or fine.
19
20 Subdivision (c) (*iii*) Probation, denial, suspension,
21 revocation, restitution, or fine.
22
23 Subdivision (c) (*iv*) Fine, probation, denial,
24 or (d) (*iii*) suspension, revocation, permanent
25 revocation, or restitution.
26

1	Subdivision (d) (i)	Reprimand, fine, probation,
2	or (d) (ii)	denial, or restitution.
3		
4	Subdivision (e) (i) ,	Reprimand, fine, probation,
5	(e) (iii) , (e) (iv) , (e) (v) ,	limitation, suspension,
6	(h) , or (s)	revocation, permanent revocation,
7		denial, or restitution.
8		
9	Subdivision (e) (ii)	Reprimand, probation, suspension,
10	or (i)	revocation, permanent
11		revocation, restitution,
12		denial, or fine.
13		
14	Subdivision (e) (vi)	Probation, suspension, revocation,
15	or (e) (vii)	limitation, denial,
16		restitution, or fine.
17		
18	Subdivision (f)	Reprimand, denial, limitation,
19		probation, or fine.
20		
21	Subdivision (g)	Reprimand or fine.
22		
23	Subdivision (j)	Suspension or fine.
24		
25	Subdivision (k) , (p) ,	Reprimand, probation, suspension,
26	or (r)	revocation, permanent revocation,

1 or fine.
2
3 Subdivision (l) Reprimand, denial, or
4 limitation.
5
6 Subdivision (m) or (o) Denial, revocation, restitution,
7 probation, suspension,
8 limitation, reprimand, or fine.
9
10 Subdivision (n) Revocation or denial.
11
12 Subdivision (q) Revocation.
13
14 Subdivision (t) Revocation, permanent revocation,
15 fine, or restitution.
16
17 Subdivision (u) Denial, revocation, probation,
18 suspension, limitation, reprimand,
19 or fine.
20
21 **SUBDIVISION (V) PROBATION, LIMITATION, DENIAL,**
22 **FINE, SUSPENSION, REVOCATION, OR**
23 **PERMANENT REVOCATION.**

24 (2) Determination of sanctions for violations under this
25 section shall be made by a disciplinary subcommittee. If, during
26 judicial review, the court of appeals determines that a final
27 decision or order of a disciplinary subcommittee prejudices

1 substantial rights of the petitioner for 1 or more of the grounds
2 listed in section 106 of the administrative procedures act of 1969,
3 1969 PA 306, MCL 24.306, and holds that the final decision or order
4 is unlawful and is to be set aside, the court shall state on the
5 record the reasons for the holding and may remand the case to the
6 disciplinary subcommittee for further consideration.

7 (3) A disciplinary subcommittee may impose a fine in an amount
8 that does not exceed \$250,000.00 for a violation of section
9 16221(a) or (b). A disciplinary subcommittee shall impose a fine of
10 at least \$25,000.00 if the violation of section 16221(a) or (b)
11 results in the death of 1 or more patients.

12 (4) A disciplinary subcommittee may require a licensee or
13 registrant or an applicant for licensure or registration who has
14 violated this article, article 7, or article 8 or a rule
15 promulgated under this article, article 7, or article 8 to
16 satisfactorily complete an educational program, a training program,
17 or a treatment program, a mental, physical, or professional
18 competence examination, or a combination of those programs and
19 examinations.

20 (5) A disciplinary subcommittee shall impose the sanction of
21 permanent revocation for a violation of section 16221(b) (xiii) if
22 the violation occurred while the licensee or registrant was acting
23 within the health profession for which he or she was licensed or
24 registered.

25 (6) Except as otherwise provided in subsection (5) and this
26 subsection, a disciplinary subcommittee shall not impose the
27 sanction of permanent revocation under this section without a

1 finding that the licensee or registrant engaged in a pattern of
2 intentional acts of fraud or deceit resulting in personal financial
3 gain to the licensee or registrant and harm to the health of
4 patients under the licensee's or registrant's care. This subsection
5 does not apply if a disciplinary subcommittee finds that a licensee
6 or registrant has violated section 16221(b) (xiv) .