

HOUSE BILL No. 6407

September 27, 2018, Introduced by Rep. Kesto and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16215, 17201, and 17745a (MCL 333.16215, 333.17201, and 333.17745a), section 16215 as amended by 2005 PA 211, section 17201 as amended by 2016 PA 499, and section 17745a as amended by 2016 PA 379.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16215. (1) Subject to subsections (2) to (6), a licensee
2 who holds a license other than a health profession subfield license
3 may delegate to a licensed or unlicensed individual who is
4 otherwise qualified by education, training, or experience the
5 performance of selected acts, tasks, or functions where the acts,
6 tasks, or functions fall within the scope of practice of the

1 licensee's profession and, **EXCEPT AS OTHERWISE PROVIDED IN SECTION**
2 **17745A**, will be performed under the licensee's supervision. A
3 licensee shall not delegate an act, task, or function under this
4 section if the act, task, or function, under standards of
5 acceptable and prevailing practice, requires the level of
6 education, skill, and judgment required of the licensee under this
7 article.

8 (2) Subject to subsection (1) and except as otherwise provided
9 in this subsection and subsections (3) and (4), a licensee who is
10 an allopathic physician or osteopathic physician and surgeon shall
11 delegate an act, task, or function that involves the performance of
12 a procedure that requires the use of surgical instrumentation only
13 to an individual who is licensed under this article. A licensee who
14 is an allopathic physician or osteopathic physician and surgeon may
15 delegate an act, task, or function described in this subsection to
16 an individual who is not licensed under this article if the
17 unlicensed individual is 1 or more of the following and if the
18 procedure is directly supervised by a licensed allopathic physician
19 or osteopathic physician and surgeon who is physically present
20 during the performance of the procedure:

21 (a) A student enrolled in a school of medicine or osteopathic
22 medicine approved by the Michigan board of medicine or the Michigan
23 board of osteopathic medicine and surgery.

24 (b) A student enrolled in a physician's assistant training
25 program approved by the joint physician's assistant task force
26 created under part 170.

27 (3) Subject to subsection (1), a licensee who is an allopathic

1 physician or osteopathic physician and surgeon may delegate an act,
2 task, or function described in subsection (2) to an individual who
3 is not licensed under this article and who is 1 of the following:

4 (a) Performing acupuncture.

5 (b) Surgically removing only bone, skin, blood vessels,
6 cartilage, dura mater, ligaments, tendons, pericardial tissue, or
7 heart valves only from a deceased individual for transplantation,
8 implantation, infusion, injection, or other medical or scientific
9 purpose.

10 (4) Subject to subsection (1), a licensee who is an allopathic
11 physician or osteopathic physician and surgeon may delegate an act,
12 task, or function described in subsection (2) to an individual who
13 is not licensed under this article if the procedure is directly
14 supervised by a licensed allopathic physician or osteopathic
15 physician and surgeon who is physically present during the
16 performance of the procedure, the delegation of such procedure is
17 not prohibited or otherwise restricted by the board or that health
18 facility or agency, and the delegation of that act, task, or
19 function is specifically authorized by that health facility or
20 agency to be delegated and performed by either of the following
21 unlicensed individuals:

22 (a) A surgical technologist who meets the qualifications
23 established by the health facility or agency with which he or she
24 is employed or under contract with.

25 (b) A surgical first assistant who meets the qualifications
26 established by the health facility or agency with which he or she
27 is employed or under contract with.

1 (5) A board may promulgate rules to further prohibit or
2 otherwise restrict delegation of specific acts, tasks, or functions
3 to a licensed or unlicensed individual if the board determines that
4 the delegation constitutes or may constitute a danger to the
5 health, safety, or welfare of the patient or public.

6 (6) To promote safe and competent practice, a board may
7 promulgate rules to specify conditions under which, and categories
8 and types of licensed and unlicensed individuals for whom, closer
9 supervision may be required for acts, tasks, and functions
10 delegated under this section.

11 (7) An individual who performs acts, tasks, or functions
12 delegated pursuant to this section does not violate the part that
13 regulates the scope of practice of that health profession.

14 (8) The amendatory act that added this subsection does not
15 require new or additional third party reimbursement or mandated
16 worker's compensation benefits for services rendered by an
17 individual authorized to perform those services under subsection
18 (4).

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

20 (a) "Advanced practice registered nurse" or "a.p.r.n." means a
21 registered professional nurse who has been granted a specialty
22 certification under section 17210 in 1 of the following health
23 profession specialty fields:

24 (i) Nurse midwifery.

25 (ii) Nurse practitioner.

26 (iii) Clinical nurse specialist.

27 (b) "Physician" means a physician who is licensed under part

1 170 or part 175.

2 (c) "Practice of nursing" means the systematic application of
3 substantial specialized knowledge and skill, derived from the
4 biological, physical, and behavioral sciences, to the care,
5 treatment, counsel, and health teaching of individuals who are
6 experiencing changes in the normal health processes or who require
7 assistance in the maintenance of health and the prevention or
8 management of illness, injury, or disability.

9 (d) "Practice of nursing as a licensed practical nurse" or
10 "l.p.n." means the practice of nursing based on less comprehensive
11 knowledge and skill than that required of a registered professional
12 nurse and **THAT IS** performed under the supervision of a registered
13 professional nurse, physician, or dentist **OR IS SPECIFICALLY**
14 **AUTHORIZED TO BE PERFORMED UNDER THIS ARTICLE WITHOUT SUPERVISION.**

15 (e) "Registered professional nurse" or "r.n." means an
16 individual who is licensed under this part to engage in the
17 practice of nursing which scope of practice includes the teaching,
18 direction, and supervision of less skilled personnel in the
19 performance of delegated nursing activities.

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

24 Sec. 17745a. (1) As used in this section:

25 (a) "Medicaid" means the program of medical assistance
26 established under title XIX of the social security act, 42 USC 1396
27 to 1396w-5.

1 (b) "Medicare" means the federal Medicare program established
2 under title XVIII of the social security act, 42 USC 1395 to
3 1395lll.

4 (c) "Public health program" means 1 of the following:

5 (i) A local health department.

6 (ii) A ~~migrant health center or a community health center as~~
7 defined under 42 USC 254b. ~~and 254c.~~

8 (iii) A family planning program designated by the department
9 of health and human services as a provider type 23 under the social
10 welfare act, 1939 PA 280, MCL 400.1 to 400.119b, and verified by
11 the department of health and human services.

12 (iv) A methadone treatment program licensed under article 6.

13 (v) A rural health clinic.

14 (vi) A hospice rendering emergency care services in a
15 patient's home as described in section 17746.

16 (d) "Rural health clinic" means a rural health clinic as
17 defined in section 42 USC 1395x that is certified to participate in
18 Medicaid and Medicare.

19 (2) Except as otherwise provided in subsections (3) and (4),
20 in a public health program without an on-site pharmacy, a
21 dispensing prescriber may delegate the dispensing of prescription
22 drugs only to a registered professional nurse licensed under part
23 172.

24 (3) In a public health program without an on-site pharmacy, a
25 dispensing prescriber may delegate the delivery of prescription
26 drugs consisting only of pre-labeled, prepackaged oral
27 contraceptives under the following circumstances:

1 (a) The delivery is delegated to an appropriately trained
2 individual.

3 (b) The delivery is performed pursuant to specific, written
4 protocols.

5 (4) In a methadone treatment program licensed under article 6
6 without an on-site pharmacy, a dispensing prescriber may delegate
7 the delivery of a prescription drug consisting only of 1 or more
8 single doses of methadone, up to the maximum number of single doses
9 allowed by law, to a registered client of the methadone treatment
10 program, if all of the following requirements are met:

11 (a) The delivery is delegated to a registered professional
12 nurse or a licensed practical nurse licensed under part 172. **IF THE**
13 **DELIVERY IS DELEGATED TO A LICENSED PRACTICAL NURSE UNDER THIS**
14 **SUBDIVISION, THE DELIVERY MAY BE PERFORMED BY THE LICENSED**
15 **PRACTICAL NURSE WITHOUT SUPERVISION.**

16 (b) The delivery is performed pursuant to specific, written
17 protocols.

18 (c) The prescription drug described in this subsection is
19 labeled in accordance with section 17745.

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