

Act No. 97
Public Acts of 2004
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**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Senators Johnson, Hammerstrom, Emerson, Jacobs, Toy, Patterson and Garcia

ENROLLED SENATE BILL No. 206

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 16131 and 16263 (MCL 333.16131 and 333.16263), as amended by 2004 PA 3, and by adding section 16323a and part 168.

The People of the State of Michigan enact:

Sec. 16131. The terms of office of individual members of the boards and task forces, except those appointed to fill vacancies, expire 4 years after appointment as follows:

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|--------------------------------|-------------|
| Audiologists | June 30 |
| Nursing | June 30 |
| Nursing home administrator | June 30 |
| Optometry | June 30 |
| Pharmacy | June 30 |
| Podiatric medicine and surgery | June 30 |
| Dentistry | June 30 |
| Chiropractic | December 31 |
| Counseling | June 30 |

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| Marriage and family therapy | June 30 |
| Medicine | December 31 |
| Occupational therapists | December 31 |
| Osteopathic medicine and surgery | December 31 |
| Physical therapy | December 31 |
| Psychology | December 31 |
| Respiratory care | December 31 |
| Social work | December 31 |
| Veterinary medicine | December 31 |

Sec. 16263. (1) Except as provided in subsection (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 article to use the terms and in a way prescribed in this article:

- (a) “Chiropractic”, “doctor of chiropractic”, “chiropractor”, “d.c.”, and “chiropractic physician”.
- (b) “Dentist”, “doctor of dental surgery”, “oral and maxillofacial surgeon”, “orthodontist”, “prosthodontist”, “periodontist”, “endodontist”, “oral pathologist”, “pediatric dentist”, “dental hygienist”, “registered dental hygienist”, “dental assistant”, “registered dental assistant”, “r.d.a.”, “d.d.s.”, “d.m.d.”, and “r.d.h.”.
- (c) “Doctor of medicine” and “m.d.”.
- (d) “Physician’s assistant” and “p.a.”.
- (e) “Registered professional nurse”, “registered nurse”, “r.n.”, “licensed practical nurse”, “l.p.n.”, “nurse midwife”, “nurse anesthetist”, “nurse practitioner”, “trained attendant”, and “t.a.”.
- (f) “Doctor of optometry”, “optometrist”, and “o.d.”.
- (g) “Osteopath”, “osteopathy”, “osteopathic practitioner”, “doctor of osteopathy”, “diplomate in osteopathy”, and “d.o.”.
- (h) “Pharmacy”, “pharmacist”, “apothecary”, “drugstore”, “druggist”, “medicine store”, “prescriptions”, and “r.ph.”.
- (i) “Physical therapy”, “physical therapist”, “physiotherapist”, “registered physical therapist”, “licensed physical therapist”, “physical therapy technician”, “p.t.”, “r.p.t.”, “l.p.t.”, and “p.t.t.”.
- (j) “Chiropodist”, “chiropody”, “chiropodical”, “podiatry”, “podiatrist”, “podiatric”, “doctor of podiatric medicine”, “foot specialist”, “podiatric physician and surgeon”, and “d.p.m.”.
- (k) “Consulting psychologist”, “psychologist”, “psychological assistant”, “psychological examiner”, “licensed psychologist”, and “limited licensed psychologist”.
- (l) “Licensed professional counselor”, “licensed counselor”, “professional counselor”, and “l.p.c.”.
- (m) “Sanitarian”, “registered sanitarian”, and “r.s.”.
- (n) Until July 1, 2005, “social worker”, “certified social worker”, “social work technician”, “s.w.”, “c.s.w.”, and “s.w.t.”. Beginning July 1, 2005, “social worker”, “licensed master’s social worker”, “licensed bachelor’s social worker”, “registered social service technician”, “social service technician”, “l.m.s.w.”, “l.b.s.w.”, and “r.s.s.t.”.
- (o) “Veterinary”, “veterinarian”, “veterinary doctor”, “veterinary surgeon”, “doctor of veterinary medicine”, “v.m.d.”, “d.v.m.”, “animal technician”, or “animal technologist”.
- (p) “Occupational therapist”, “occupational therapist registered”, “certified occupational therapist”, “o.t.”, “o.t.r.”, “c.o.t.”, “certified occupational therapy assistant”, “occupational therapy assistant”, or “c.o.t.a.”.
- (q) “Marriage advisor” or “marriage consultant”; “family counselor”, “family advisor”, “family therapist”, or “family consultant”; “family guidance counselor”, “family guidance advisor”, or “family guidance consultant”; “marriage guidance counselor”, “marriage guidance advisor”, or “marriage guidance consultant”; “family relations counselor”; “marriage relations counselor”, “marriage relations advisor”, or “marriage relations consultant”; “marital counselor” or “marital therapist”; “limited licensed marriage and family therapist” or “limited licensed marriage counselor”; “licensed marriage and family therapist” or “licensed marriage counselor”; and “l.m.f.t.”.
- (r) “Nursing home administrator”.
- (s) “Respiratory therapist”, “respiratory care practitioner”, “licensed respiratory therapist”, “licensed respiratory care practitioner”, “r.t.”, “r.c.p.”, “l.r.t.”, and “l.r.c.p.”.
- (t) “Audiometrist”, “audiologist”, “hearing therapist”, “hearing aid audiologist”, “educational audiologist”, “industrial audiologist”, and “clinical audiologist”.

(2) Notwithstanding section 16261, a person who was specially trained at an institution of higher education in this state to assist a physician in the field of orthopedics and upon completion of training, received a 2-year associate of

science degree as an orthopedic physician's assistant before January 1, 1977, may use the title "orthopedic physician's assistant" whether or not the person is licensed under this article.

Sec. 16323a. Fees for a person licensed or seeking licensure as an audiologist under part 168 are as follows:

- (a) Application processing fee..... \$ 120.00
- (b) License fee, per year 150.00

PART 168. AUDIOLOGY

Sec. 16801. (1) As used in this part:

- (a) "Audiologist" means an individual licensed under this article to engage in the practice of audiology.
- (b) "Practice of audiology" means the nonmedical and nonsurgical application of principles, methods, and procedures related to disorders of hearing, including all of the following:
 - (i) Facilitating the conservation of auditory system function.
 - (ii) Developing and implementing hearing conservation programs.
 - (iii) Preventing, identifying, and assessing hearing disorders of the peripheral and central auditory system.
 - (iv) Selecting, fitting, and dispensing of amplification systems, including hearing aids and related devices, and providing training for their use.
 - (v) Providing auditory training, consulting, education, and speech reading to individuals with hearing disorders.
 - (vi) Administering and interpreting tests of vestibular function and tinnitus in compliance with section 16809 and in adherence to the mandate of subsection (2).
 - (vii) Routine cerumen removal from the cartilaginous portion of the external ear in otherwise healthy ears except that if the audiologist, while engaged in routine cerumen removal, discovers any trauma, including, but not limited to, continuous uncontrolled bleeding, lacerations, or other traumatic injuries, he or she shall, as soon as practically possible, refer the patient to a person licensed in the practice of medicine or osteopathic medicine and surgery.
 - (viii) Speech and language screening limited to a pass-fail determination for the purpose of identification of individuals with disorders of communication.

(2) Practice of audiology does not include the practice of medicine or osteopathic medicine and surgery or medical diagnosis or treatment.

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

Sec. 16803. Beginning 120 days after the effective date of this part and except as otherwise provided in section 16807, an individual shall not engage in the practice of audiology unless licensed or otherwise authorized by this article.

Sec. 16805. The Michigan board of audiology is created within the department. The board consists of the following 9 voting members who meet the requirements of part 161:

- (a) Five audiologists. The members initially appointed under this subdivision shall meet the requirements of section 16135.
- (b) Two members shall be persons licensed to practice medicine or osteopathic medicine and surgery who hold a certificate of qualification from the American board of otolaryngology.
- (c) Two public members, neither of whom is an audiologist or physician or has family or financial ties to an audiologist or physician.

Sec. 16807. This part does not limit any of the following:

- (a) An individual employed by a regionally accredited college or university and involved with research or the teaching of communication disorders from performing those duties for which he or she is employed by that institution, as long as the individual does not engage in the practice of audiology or hold himself or herself out as licensed or otherwise authorized under this article as an audiologist.
- (b) An individual who is employed by the department of community health in 1 of its approved hearing screening training programs from conducting screening of hearing sensitivity.
- (c) An individual certified by an agency acceptable to the occupational health standards commission from engaging in hearing screening as part of a hearing conservation program in compliance with standards adopted under the Michigan occupational safety and health act, 1974 PA 154, MCL 408.1001 to 408.1094.
- (d) A certified, licensed, registered, or otherwise statutorily recognized member of another profession, including a person licensed in the practice of medicine or osteopathic medicine and surgery and an unlicensed or licensed person to

whom tasks have been delegated under his or her supervision, and including a person licensed under article 13 of the occupational code, 1980 PA 299, MCL 339.1301 to 339.1309, from practicing his or her profession as authorized by law, so long as the individual does not hold himself or herself out to the public as possessing a license issued or title protected under this article.

Sec. 16809. (1) An audiologist shall administer tests of vestibular function only to patients who have been referred to him or her by a person licensed to practice medicine or osteopathic medicine and surgery.

(2) If an audiologist administers an audiometric test for tinnitus and his or her examination of the patient reflects the presence of otologic or systemic diseases, the audiologist shall promptly refer the patient to a person licensed to practice medicine or osteopathic medicine and surgery.

(3) An audiologist shall comply with the federal food and drug administration medical referral guidelines for fitting and dispensing hearing instruments, 21 CFR 801.621, incorporated by reference.

(4) A licensed audiologist may not sell a hearing instrument to a person under 18 years of age unless the person or the parent or guardian of the person presents to the audiologist a written statement signed by a licensed physician who specializes in diseases of the ear stating that both of the following exist:

(a) The person's hearing loss has been medically evaluated during the 6-month period preceding the date the statement is presented.

(b) The person may be considered a candidate for a hearing instrument.

Sec. 16811. (1) The department shall require an individual granted a license under this article as an audiologist to meet either of the following requirements:

(a) Possess a master's degree in audiology from a regionally accredited college or university approved by the board; have completed at least 9 months of supervised clinical experience in audiology; and have successfully completed an examination in audiology as described in subsection (2) or (3).

(b) Possess a doctoral degree in audiology from a regionally accredited college or university approved by the board; have completed at least 9 months of supervised clinical experience in audiology; and have successfully completed an examination in audiology as described in subsection (2) or (3).

(2) The department, in consultation with the board, shall provide that applicants pass an examination dealing with all aspects of the practice of audiology before issuance of a license under this part. The department, in consultation with the board, may develop its own examination and may promulgate rules to establish standards for that examination or for the adoption by reference of an examination, or parts of an examination, developed by an outside entity that it determines offers an appropriate examination. If the department adopts all or part of an examination developed by an outside entity, the department may promulgate rules to adopt by reference any supplement or update to the examination.

(3) Beginning on the effective date of this part and until 1 or more examinations are developed or adopted under subsection (2), the PRAXIS examination in audiology, developed by educational testing services, in existence on the effective date of this part is adopted by reference and considered acceptable for qualification of applicants under this part. Not later than June 30, 2005, the department, in consultation with the board, shall make a recommendation on whether to develop its own exam, adopt an examination developed by an outside entity, or continue to accept the PRAXIS examination and any update pursuant to rule as further described in subsection (2). The department shall notify the house and senate standing committees on health policy matters of its recommendation.

(4) Notwithstanding subsections (2) and (3), the department shall grant a license to a person who, on the effective date of this part, has been engaged in the practice of audiology, who meets the requirements of subsection (1), who applies for licensure under this part, and who presents to the department proof of passing any past or present version of the PRAXIS examination in audiology or any past or present version of its predecessor, the national teachers examination on speech and language pathology and audiology, both of which were developed by educational testing services. Passage of those examinations is considered fulfillment of the examination requirement of this subsection. The past and present versions of the PRAXIS examination in audiology and all versions of its predecessor, the national teachers examination on speech and language pathology and audiology, both of which were developed by educational testing services, are adopted by reference for purposes of this subsection.

(5) Beginning the license year after the effective date of the rules promulgated under this subsection, an individual shall meet the continuing education requirements of this subsection. The department, in consultation with the board, shall promulgate rules to require licensees seeking renewal to furnish evidence acceptable to the department and board of the successful completion, during the preceding license year, of at least 10 clock hours of continuing education courses or programs related to the practice of audiology and designed to further educate licensees.

(6) The department shall ensure that all approved continuing education courses described in subsection (5) include defined measurements of preknowledge and postknowledge or skill improvements, or both, as a result of the continuing education program.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor