

HOUSE BILL No. 5167

September 13, 2005, Introduced by Reps. Murphy, Byrum, Zelenko, Kathleen Law, Anderson, Vagnozzi, Bieda, Newell, Vander Veen, Shaffer, Stahl, Lipsey, Meisner, Gonzales, Plakas, Gleason, Leland and Clack and referred to the Committee on Senior Health, Security, and Retirement.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16146, 16174, and 16245 (MCL 333.16146, 333.16174, and 333.16245), section 16146 as amended by 1988 PA 462, section 16174 as amended by 2002 PA 643, and section 16245 as amended by 1998 PA 109.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16146. (1) A board shall grant a license or registration
2 to an applicant meeting the requirements for the license or
3 registration as prescribed in this article and the rules
4 promulgated under this article.

5 (2) A board which grants licenses may:

1 (a) Certify licensees in those health profession specialty
2 fields within its scope of practice which are established in this
3 article.

4 (b) Reclassify licenses on the basis of a determination that
5 the addition or removal of conditions or restrictions is
6 appropriate.

7 **(C) UPON GOOD CAUSE, REQUEST THAT A LICENSEE OR REGISTRANT**
8 **HAVE A CRIMINAL HISTORY CHECK CONDUCTED IN ACCORDANCE WITH SECTION**
9 **16174(3).**

10 Sec. 16174. (1) An individual who is licensed or registered
11 under this article shall meet all of the following requirements:

12 (a) Be 18 or more years of age.

13 (b) Be of good moral character.

14 (c) Have a specific education or experience in the health
15 profession or in a health profession subfield or health profession
16 specialty field of the health profession, or training equivalent,
17 or both, as prescribed by this article or rules of a board
18 necessary to promote safe and competent practice and informed
19 consumer choice.

20 (d) Have a working knowledge of the English language as
21 determined in accordance with minimum standards established for
22 that purpose by the department.

23 (e) Pay the appropriate fees as prescribed in this article.

24 (2) In addition to the requirements of subsection (1), an
25 applicant for licensure, registration, specialty certification, or
26 a health profession specialty subfield license under this article
27 shall meet all of the following requirements:

1 (a) Establish that disciplinary proceedings before a similar
2 licensure, registration, or specialty licensure or specialty
3 certification board of this or any other state, of the United
4 States military, of the federal government, or of another country
5 are not pending against the applicant.

6 (b) Establish that if sanctions have been imposed against the
7 applicant by a similar licensure, registration, or specialty
8 licensure or specialty certification board of this or any other
9 state, of the United States military, of the federal government, or
10 of another country based upon grounds that are substantially
11 similar to those set forth in this article or article 7 or the
12 rules promulgated under this article or article 7, as determined by
13 the board or task force to which the applicant applies, the
14 sanctions are not in force at the time of application.

15 (c) File with the board or task force a written, signed
16 consent to the release of information regarding a disciplinary
17 investigation involving the applicant conducted by a similar
18 licensure, registration, or specialty licensure or specialty
19 certification board of this or any other state, of the United
20 States military, of the federal government, or of another country.

21 **(3) IN ADDITION TO THE REQUIREMENTS OF SUBSECTIONS (1) AND**
22 **(2), BEGINNING JANUARY 1, 2006, AN APPLICANT FOR INITIAL LICENSURE**
23 **OR REGISTRATION OR FOR RENEWAL OF A LICENSE OR REGISTRATION SHALL**
24 **SUBMIT A NOMINAL FEE AS DETERMINED BY THE DEPARTMENT BUT NOT TO**
25 **EXCEED \$2.00 FOR THE PROCESSING OF CRIMINAL HISTORY BACKGROUND**
26 **CHECKS. BEGINNING JANUARY 1, 2006, AN APPLICANT FOR INITIAL**
27 **LICENSURE OR REGISTRATION SHALL SUBMIT HIS OR HER FINGERPRINTS TO**

1 THE DEPARTMENT OF STATE POLICE TO HAVE A CRIMINAL HISTORY CHECK
2 CONDUCTED AND REQUEST THAT THE DEPARTMENT OF STATE POLICE FORWARD
3 HIS OR HER FINGERPRINTS TO THE FEDERAL BUREAU OF INVESTIGATION FOR
4 A NATIONAL CRIMINAL HISTORY CHECK. THE DEPARTMENT OF STATE POLICE
5 SHALL CONDUCT A CRIMINAL HISTORY CHECK AND REQUEST THE FEDERAL
6 BUREAU OF INVESTIGATION TO MAKE A DETERMINATION OF THE EXISTENCE OF
7 ANY NATIONAL CRIMINAL HISTORY PERTAINING TO THE APPLICANT. THE
8 DEPARTMENT OF STATE POLICE SHALL PROVIDE THE BOARD AND THE
9 APPLICANT WITH A WRITTEN REPORT OF THE CRIMINAL HISTORY CHECK
10 INCLUDING ANY CRIMINAL HISTORY RECORD INFORMATION ON THE APPLICANT
11 MAINTAINED BY THE DEPARTMENT OF STATE POLICE. THE DEPARTMENT OF
12 STATE POLICE SHALL FORWARD THE RESULTS OF THE FEDERAL BUREAU OF
13 INVESTIGATION DETERMINATION TO THE BOARD AND THE APPLICANT. IF
14 THERE ARE ANY CHARGES FOR FINGERPRINTING, CONDUCTING THE CRIMINAL
15 HISTORY CHECK, OR A FEDERAL BUREAU OF INVESTIGATION DETERMINATION
16 UNDER THIS SUBSECTION, THE APPLICANT REQUESTING THE CRIMINAL
17 HISTORY CHECK SHALL PAY THOSE CHARGES. THE CRIMINAL HISTORY RECORD
18 INFORMATION OBTAINED UNDER THIS SUBSECTION SHALL BE USED ONLY FOR
19 THE PURPOSE OF EVALUATING AN APPLICANT'S QUALIFICATIONS FOR
20 LICENSURE OR REGISTRATION FOR WHICH HE OR SHE HAS APPLIED. A MEMBER
21 OF THE BOARD SHALL NOT DISCLOSE THE REPORT OR ITS CONTENTS TO ANY
22 PERSON WHO IS NOT DIRECTLY INVOLVED IN EVALUATING THE APPLICANT'S
23 QUALIFICATIONS FOR LICENSURE OR REGISTRATION.

24 (4) ~~-(3)-~~ Before granting a license, registration, specialty
25 certification, or a health profession specialty field license to an
26 applicant, the board or task force to which the applicant applies
27 may do 1 of the following:

1 (a) Make an independent inquiry into the applicant's
2 compliance with the requirements described in subsection (2). If a
3 licensure or registration board or task force determines under
4 subsection (2)(b) that sanctions have been imposed and are in force
5 at the time of application, the board or task force shall not grant
6 a license or registration or specialty certification or health
7 profession specialty field license to the applicant.

8 (b) Require the applicant to secure from a national
9 association or federation of state professional licensing boards
10 certification of compliance with the requirements described in
11 subsection (2).

12 (5) ~~-(4)-~~ If, after issuing a license, registration, specialty
13 certification, or health profession specialty field license, a
14 board or task force or the department determines that sanctions
15 have been imposed against the licensee or registrant by a similar
16 licensure or registration or specialty licensure or specialty
17 certification board as described in subsection (2)(b), the
18 disciplinary subcommittee may impose appropriate sanctions upon the
19 licensee or registrant. The licensee or registrant may request a
20 show cause hearing before a hearing examiner to demonstrate why the
21 sanctions should not be imposed.

22 (6) ~~-(5)-~~ An applicant for licensure, registration, specialty
23 certification, or a health profession specialty field license who
24 is or has been licensed, registered, or certified in a health
25 profession or specialty by another state or country shall disclose
26 that fact on the application form.

27 Sec. 16245. (1) An individual whose license is limited,

1 suspended, or revoked under this part may apply to his or her board
2 or task force for a reinstatement of a revoked or suspended license
3 or reclassification of a limited license pursuant to section 16247
4 or 16249.

5 (2) An individual whose registration is suspended or revoked
6 under this part may apply to his or her board for a reinstatement
7 of a suspended or revoked registration pursuant to section 16248.

8 (3) A board or task force shall reinstate a license or
9 registration suspended for grounds stated in section ~~16221(i)~~
10 **16221(J)** upon payment of the installment.

11 (4) Except as otherwise provided in this subsection, in case
12 of a revoked license or registration, an applicant shall not apply
13 for reinstatement before the expiration of 3 years after the
14 effective date of the revocation. In the case of a license or
15 registration that was revoked for a violation of section
16 16221(b)(vii), a violation of section 16221(c)(iv) consisting of a
17 felony conviction, any other felony conviction involving a
18 controlled substance, or a violation of section ~~16221(p)~~
19 **16221(Q)**, an applicant shall not apply for reinstatement before the
20 expiration of 5 years after the effective date of the revocation.
21 The department shall return an application for reinstatement
22 received before the expiration of the applicable time period under
23 this subsection.

24 (5) The department shall provide an opportunity for a hearing
25 before final rejection of an application for reinstatement.

26 (6) Based upon the recommendation of the disciplinary
27 subcommittee for each health profession, the department shall adopt

1 guidelines to establish specific criteria to be met by an applicant
2 for reinstatement under this article or article 7. The criteria may
3 include corrective measures or remedial education as a condition of
4 reinstatement. If a board or task force, in reinstating a license
5 or registration, deviates from the guidelines adopted under this
6 subsection, the board or task force shall state the reason for the
7 deviation on the record.

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

14 (8) AN INDIVIDUAL WHO SEEKS REINSTATEMENT OF A REVOKED OR
15 SUSPENDED LICENSE OR RECLASSIFICATION OF A LIMITED LICENSE PURSUANT
16 TO THIS SECTION SHALL HAVE A CRIMINAL HISTORY CHECK CONDUCTED IN
17 ACCORDANCE WITH SECTION 16174 AND SUBMIT A COPY OF THE RESULTS OF
18 THE BACKGROUND CHECK TO THE BOARD WITH HIS OR HER APPLICATION FOR
19 REINSTATEMENT OR RECLASSIFICATION.