

**SUBSTITUTE FOR
HOUSE BILL NO. 4710**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending the heading of part 165 and sections 16215, 16322,
16501, 16511, 16521, 16525, and 16529 (MCL 333.16215, 333.16322,
333.16501, 333.16511, 333.16521, 333.16525, and 333.16529), section
16215 as amended by 2005 PA 211, sections 16322, 16501, 16525, and
16529 as added by 2006 PA 30, section 16511 as amended by 2006 PA
397, and section 16521 as amended by 2010 PA 79, and by adding
sections 16513, 16515, and 16517.

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



1 otherwise qualified by education, training, or experience the
2 performance of selected acts, tasks, or functions where the acts,
3 tasks, or functions fall within the scope of practice of the
4 licensee's profession and will be performed under the licensee's
5 supervision. A licensee shall not delegate an act, task, or
6 function under this section if the act, task, or function, under
7 standards of acceptable and prevailing practice, requires the level
8 of education, skill, and judgment required of the licensee under
9 this article.

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

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

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

29 (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. **This subdivision does not apply**
 5 **beginning 36 months after the effective date of the rules**
 6 **promulgated under section 16525 on the licensure of acupuncturists.**

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

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

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

27 (b) A surgical first assistant who meets the qualifications
 28 established by the health facility or agency with which he or she
 29 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. 16322. Fees for ~~a person registered or seeking~~
20 ~~registration as an acupuncturist~~ **an individual who is licensed or**
21 **seeking licensure to engage in the practice of acupuncture** under
22 part 165 are as follows:

- 23 (a) Application processing fee..... \$ 75.00
- 24 (b) ~~Registration~~ **License** fee, per year..... \$ 200.00
- 25 (c) **Limited license, per year**..... \$ 200.00
- 26 (d) **Temporary license fee**..... \$ 200.00

27 PART 165. **Acupuncture**

28 Sec. 16501. (1) As used in this part:

29 (a) **"Acupressure" means a form of manual therapy in which**



1 physical pressure is applied to various points on the body.

2 (b) ~~(a)~~ "Acupuncture" means the insertion and manipulation of
3 needles through the surface of the human body. ~~at specific~~
4 ~~locations on the human body for the prevention or correction of~~
5 ~~disease, injury, pain, or other condition.~~ Acupuncture includes, but
6 is not limited to, laser acupuncture, electroacupuncture, pricking
7 therapy, dry needling, and intramuscular stimulation.

8 (c) ~~(b)~~ "Acupuncturist" means an individual who practices
9 acupuncture and is registered, or otherwise authorized, licensed
10 under this part to engage in the practice of acupuncture.

11 (d) "Cupping" means the placement of a specially designed cup
12 on the body to create suction.

13 (e) "Dermal friction" means the use of repeated, closely
14 timed, unidirectional press-stroking with a smooth-edged instrument
15 over a lubricated area of the body.

16 (f) "Dietary counseling" means the process of advising a
17 patient about healthy food choices and healthy eating habits in
18 accordance with East Asian medical theory.

19 (g) "Dry needling" means a rehabilitative procedure using
20 filiform needles to penetrate the skin or underlying tissues by
21 targeting only myofascial trigger points and muscular and
22 connective tissues to affect change in body structures and
23 functions for the evaluation and management of neuromusculoskeletal
24 pain and movement impairment. Dry needling does not include the
25 stimulation of auricular points or other acupuncture points.

26 (h) "East Asian medicine techniques" includes, but is not
27 limited to, acupuncture, manual therapy, moxibustion, heat therapy,
28 dietary counseling, therapeutic exercise, acupressure, cupping,
29 dermal friction, homeopathy, lifestyle coaching, and treatment with



1 herbal medicines.

2 (i) "Heat therapy" means the use of heat in therapy, such as
3 for pain relief and health.

4 (j) "Herbal medicine" means the internal and external use of a
5 plant or a plant extract, a mineral, or an animal product, that is
6 not a prescription drug as that term is defined in section 17708.

7 (k) "Homeopathy" means the use of a highly diluted natural
8 remedy from the plant, mineral, and animal domain.

9 (l) "Lifestyle coaching" means the process of advising a
10 patient about healthy lifestyle choices and habits in accordance
11 with East Asian medical theory.

12 (m) "Manual therapy" means the application of an accurately
13 determined and specifically directed manual force to the body,
14 excluding a high-velocity, low-amplitude thrust to the spine.

15 (n) "Moxibustion" means burning the dried plant *Artemisia*
16 *vulgaris* on or very near the surface of the skin as a form of
17 therapy.

18 (o) "Practice of acupuncture", subject to subsection (2),
19 means the use of traditional and contemporary East Asian medical
20 theory to assess and diagnose a patient, to develop a plan to treat
21 the patient, and to treat the patient through East Asian medicine
22 techniques.

23 (p) "Practice of chiropractic" means that term as defined in
24 section 16401.

25 (q) "Practice of massage therapy" means that term as defined
26 in section 17951.

27 (r) "Practice of medicine" means that term as defined in
28 section 17001.

29 (s) "Practice of osteopathic medicine and surgery" means that



1 term as defined in section 17501.

2 (t) "Practice of physical therapy" means that term as defined
3 in section 17801.

4 (u) "Registered acupuncturist" means an individual who is
5 registered or otherwise authorized under this part before the
6 effective date of the amendatory act that added section 16513.

7 (v) "Systematic acupuncture education" means a course of
8 education that covers the foundation of acupuncture science and
9 theory, channel and point location, needling techniques, approaches
10 to diagnosis and therapy, and patient management.

11 (w) "Therapeutic exercise" means a range of physical
12 activities that help restore and build physical strength,
13 endurance, flexibility, balance, and stability.

14 (2) For purposes of this part, practice of acupuncture does
15 not include the practice of medicine, the practice of osteopathic
16 medicine and surgery, the practice of physical therapy, the
17 practice of occupational therapy, the practice of podiatric
18 medicine and podiatric surgery, the practice of nursing, the
19 practice of dentistry, the practice of massage therapy, or the
20 practice of chiropractic.

21 (3) ~~(2)~~—In addition to the definitions in this part, article 1
22 contains general definitions and principles of construction
23 applicable to all articles in the code and part 161 contains
24 definitions applicable to this part.

25 Sec. 16511. ~~(1)~~—Except as otherwise provided ~~under subsection~~
26 ~~(2)~~, ~~after in this part, beginning on the effective date of~~ rules
27 ~~are promulgated under section 16145, 16525 regarding licensure,~~ an
28 individual shall not use the words, titles, or letters
29 "acupuncturist", "certified acupuncturist", ~~or~~ "registered



1 acupuncturist", "licensed acupuncturist", "L.Ac.", or a combination
2 thereof, with or without qualifying words or phrases, similar word
3 or initial that indicates that the individual is an acupuncturist,
4 unless he or she is registered-authorized under this part to use
5 the terms and in a way prescribed in this part.

6 ~~(2) Neither of the following is subject to the provisions of~~
7 ~~this part:~~

8 ~~(a) A physician who is licensed under part 170 or 175.~~

9 ~~(b) An individual who is certified by the national acupuncture~~
10 ~~detoxification association.~~

11 **Sec. 16513. (1) Beginning on the effective date of rules**
12 **promulgated under section 16525 regarding licensure, an individual**
13 **shall not engage in the practice of acupuncture unless he or she is**
14 **licensed under this part or is otherwise authorized under this**
15 **article. For a period not to exceed 36 months from the effective**
16 **date of the rules promulgated under section 16525 regarding**
17 **licensure, a registered acupuncturist may, without a license under**
18 **this part, continue to use the titles "acupuncturist", "registered**
19 **acupuncturist", or "certified acupuncturist" and engage in the**
20 **practice of acupuncture.**

21 (2) In addition to the exemptions from licensure under section
22 16171, this part does not apply to any of the following:

23 (a) Except as otherwise provided in subdivision (e), an
24 individual licensed, registered, or otherwise authorized under any
25 other part or act who is performing activities that are considered
26 to be within the practice of acupuncture if those activities are
27 within the individual's scope of practice and the individual does
28 not use the words, titles, or letters protected under section
29 16511.



1 (b) A physician who is licensed under part 170 or part 175 if
2 the physician has completed a total of not less than 300 hours of
3 systematic acupuncture education that include not less than 100
4 hours of live lectures, demonstrations, and supervised clinical
5 training specific to acupuncture.

6 (c) An individual who meets all of the following requirements:

7 (i) He or she meets the requirements for a certificate of
8 training as an acupuncture detoxification specialist issued by the
9 National Acupuncture Detoxification Association or an organization
10 that the board determines is a successor organization.

11 (ii) He or she only uses the auricular protocol for substance
12 use disorder prevention and treatment developed by the National
13 Acupuncture Detoxification Association or an organization that the
14 board determines is a successor organization.

15 (iii) When using the protocol described in subparagraph (ii), he
16 or she is under the supervision of an acupuncturist or a physician
17 licensed under part 170 or part 175.

18 (iv) He or she does not use the words, titles, or letters
19 protected under section 16511.

20 (d) An individual performing acupressure, cupping, dermal
21 friction, dietary counseling, heat therapy, herbal medicine,
22 homeopathy, lifestyle coaching, manual therapy, or therapeutic
23 exercise, while engaged in the practice of a profession with
24 established standards and ethics and as long as those services are
25 not designated as or implied to be the practice of acupuncture and
26 the individual does not use the titles, words, or letters protected
27 under section 16511.

28 (e) Dry needling by an individual licensed, registered, or
29 otherwise authorized under any other part if dry needling is within



1 the individual's scope of practice.

2 Sec. 16515. (1) Except as otherwise provided in subsections
3 (2) and (3), the department shall issue a license to an applicant
4 who meets the requirements of section 16174 and the requirements
5 for licensure established in rules promulgated under section 16525.

6 (2) On or before the expiration of 36 months after the
7 effective date of the rules promulgated under section 16525
8 regarding licensure, the department shall issue a license to an
9 applicant who meets the requirements of section 16174 and 1 of the
10 following:

11 (a) He or she is a registered acupuncturist.

12 (b) He or she has the education, training, and experience
13 appropriate to the practice of acupuncture as established in rules
14 promulgated under section 16525 regarding licensure. In determining
15 whether an applicant has met the requirements for licensure under
16 this subdivision, the department, in consultation with the board,
17 shall promulgate rules establishing criteria for considering
18 patient records, billing records, education records, training
19 records, or other evidence of the applicant's education, training,
20 and experience that is submitted to the department. An applicant
21 shall ensure that any document that is submitted to the department
22 under this subdivision ensures the confidentiality of a patient's
23 identity.

24 (3) On or before the expiration of 36 months after the
25 effective date of the rules promulgated under section 16525
26 regarding licensure, the department shall issue a limited license
27 to an applicant who meets the requirements of section 16174, and
28 who, at the time of the application, meets all of the following
29 requirements:



1 (a) The applicant has been performing acupuncture under the
2 supervision of a physician licensed under part 170 or part 175 for
3 at least 2 years as of the effective date of the amendatory act
4 that added this section. The applicant shall include the name of
5 the physician under which he or she is engaging in the practice of
6 acupuncture on the application for limited licensure.

7 (b) The applicant holds a license to engage in another health
8 profession.

9 (4) An individual who is granted a limited license under
10 subsection (3) shall comply with all of the following:

11 (a) He or she shall only engage in the practice of acupuncture
12 while he or she is under the supervision of the physician named in
13 the application for limited licensure and shall immediately notify
14 the department if the physician named in the application is no
15 longer willing or able to supervise the individual.

16 (b) He or she shall not collect payment from an insurer for
17 performing a service that is within the practice of acupuncture. As
18 used in this subdivision, "insurer" means that term as defined in
19 section 106 of the insurance code of 1956, 1956 PA 218, MCL
20 500.106.

21 Sec. 16517. (1) Notwithstanding the requirements of part 161,
22 the department, in consultation with the board, shall promulgate
23 rules requiring a licensee seeking renewal of a license to furnish
24 the department with satisfactory evidence that during the license
25 cycle immediately preceding the application for renewal the
26 licensee has attended continuing education courses or programs
27 approved by the board in subjects related to the practice of
28 acupuncture and designed to further educate licensees. An
29 individual is considered to have completed the continuing education



1 requirements described in this subsection if the department
 2 determines that the individual has met the continuing education
 3 standards of the National Certification Commission for Acupuncture
 4 and Oriental Medicine or equivalent standards as determined by the
 5 board.

6 (2) As required under section 16204, the department, in
 7 consultation with the board, shall promulgate rules requiring each
 8 applicant for license renewal to complete as part of the
 9 educational courses or programs required under subsection (1) an
 10 appropriate number of hours or courses in pain and symptom
 11 management.

12 (3) In addition to the continuing education requirements of
 13 this section, the department shall require an applicant seeking
 14 renewal of a limited license granted under section 16515(3) to hold
 15 a license to engage in another health profession at the time of his
 16 or her application for renewal as a condition of renewal of his or
 17 her limited license.

18 Sec. 16521. (1) The Michigan board of acupuncture is created
 19 in the department and ~~shall consist~~ **consists** of the following 13
 20 voting members, ~~who each of whom must~~ meet the requirements of part
 21 161:

22 (a) ~~Until June 30, 2010, 4 acupuncturists. Beginning July 1,~~
 23 ~~2010, 7~~ **Seven** acupuncturists. The members appointed under this
 24 subdivision ~~shall~~ **must** meet the requirements of section 16135.

25 (b) Three physicians licensed under part 170 or 175, **at least**
 26 **1 of whom has met the requirement in section 16513(2) (b) .**

27 (c) ~~Until June 30, 2010, 2 public members. Beginning July 1,~~
 28 ~~2010, 3~~ **Three** public members.

29 (2) The terms of office of individual members of the board



1 created under this part, except those appointed to fill vacancies,
 2 expire ~~4 years after appointment~~ on June 30 of the year in which
 3 the term expires **pursuant to section 16122.**

4 Sec. 16525. ~~(1) The~~ **Within 12 months after the effective date**
 5 **of the amendatory act that amended this section,** the department, in
 6 consultation with the board, shall promulgate rules ~~setting forth~~
 7 ~~the minimum standards for registration as an acupuncturist. The~~
 8 ~~department, in consultation with the board, may adopt by reference~~
 9 ~~the professional standards issued by a certified program that is~~
 10 ~~recognized by the national commission for certifying agencies or by~~
 11 ~~a nationally recognized trade association.~~ **that establish the**
 12 **minimum standards for licensure as an acupuncturist and implement**
 13 **the licensure program for the practice of acupuncture. In**
 14 **promulgating rules for purposes of section 16515(1), the**
 15 **department, in consultation with the board, may adopt by reference**
 16 **the professional standards issued by a certified program that is**
 17 **recognized by the National Commission for Certifying Agencies. In**
 18 **promulgating rules for purposes of section 16515(2) (b), the**
 19 **department, in consultation with the board, shall consider whether**
 20 **an applicant has completed systematic acupuncture education that**
 21 **includes live lectures, demonstrations, and supervised clinical**
 22 **training specific to acupuncture.**

23 ~~(2) The department, in consultation with the board, shall not~~
 24 ~~promulgate rules under this section that diminish competition or~~
 25 ~~exceed the minimum level of regulation necessary to protect the~~
 26 ~~public.~~

27 Sec. 16529. This part does not require new or additional third
 28 party reimbursement or mandated worker's compensation benefits for
 29 services by an individual ~~registered~~ **licensed** as an acupuncturist



1 under this part.

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

