

# HOUSE BILL NO. 4710

June 11, 2019, Introduced by Reps. Kahle, Pagan, Kuppa, Warren, Filler, LaGrand, Haadsma, Vaupel, Griffin, Calley, Hertel, Sabo, LaFave, Wozniak, Frederick, Afendoulis and Sneller and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending 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  
 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  
 7 licensee's profession and will be performed under the licensee's  
 8 supervision. A licensee shall not delegate an act, task, or  
 9 function under this section if the act, task, or function, under  
 10 standards of acceptable and prevailing practice, requires the level  
 11 of education, skill, and judgment required of the licensee under  
 12 this article.

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

26           (a) A student enrolled in a school of medicine or osteopathic  
 27 medicine approved by the Michigan board of medicine or the Michigan



1 board of osteopathic medicine and surgery.

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

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

9 (a) ~~Performing~~ **Until 12 months after the effective date of the**  
10 **rules promulgated under section 16525, performing** acupuncture.

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

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

28 (a) A surgical technologist who meets the qualifications  
29 established by the health facility or agency with which he or she

1 is employed or under contract. ~~with.~~

2 (b) A surgical first assistant who meets the qualifications  
3 established by the health facility or agency with which he or she  
4 is employed or under contract. ~~with.~~

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

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

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

18 (8) The amendatory act that added this subsection does not  
19 require new or additional third party reimbursement or mandated  
20 worker's compensation benefits for services rendered by an  
21 individual authorized to perform those services under subsection  
22 (4).

23 Sec. 16322. Fees for ~~a person registered or seeking~~  
24 ~~registration as an acupuncturist~~ **an individual who is licensed or**  
25 **seeking licensure to engage in the practice of acupuncture** under  
26 part 165 are as follows:

27	(a) Application processing fee.....	\$ 75.00
28	(b) <del>Registration</del> - <b>License</b> fee, per year.....	\$ 200.00
29	(c) <b>Limited license, per year</b> .....	\$ 200.00

1 (d) Temporary license fee..... \$ 200.00

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

3 (a) "Acupressure" means a form of manual therapy in which  
4 physical pressure is applied to various points on the body.

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

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

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

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

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

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

29 (h) "East Asian medicine techniques" includes, but is not

1 limited to, acupuncture, manual therapy, moxibustion, heat therapy,  
2 dietary counseling, therapeutic exercise, acupressure, cupping,  
3 dermal friction, homeopathy, lifestyle coaching, and treatment with  
4 herbal medicines.

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

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

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

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

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

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

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

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

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



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

3 (s) "Practice of osteopathic medicine and surgery" means that  
4 term as defined in section 17501.

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

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

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

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

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

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

28 Sec. 16511. ~~(1)~~—Except as otherwise provided under ~~subsection~~  
29 ~~(2)~~, ~~after~~ in this part, beginning on the effective date of rules

1 ~~are promulgated under section 16145, 16525~~, an individual shall not  
 2 use the words, titles, or letters "acupuncturist", "certified  
 3 acupuncturist", ~~or "registered acupuncturist"~~, **"licensed**  
 4 **acupuncturist"**, **"L.Ac."**, or a ~~combination thereof, with or without~~  
 5 ~~qualifying words or phrases~~, **similar word or initial that indicates**  
 6 **that the individual is an acupuncturist**, unless he or she is  
 7 ~~registered~~ **authorized** under this part **to use the terms and in a way**  
 8 **prescribed in this part.**

9 ~~(2) Neither of the following is subject to the provisions of~~  
 10 ~~this part:~~

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

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

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

23 **(2) In addition to the exemptions from licensure under section**  
 24 **16171, this part does not apply to any of the following:**

25 **(a) Except as otherwise provided in subdivision (e), an**  
 26 **individual licensed, registered, or otherwise authorized under any**  
 27 **other part or act who is performing activities that are considered**  
 28 **to be within the practice of acupuncture if those activities are**  
 29 **within the individual's scope of practice and the individual does**





1 not use the words, titles, or letters protected under section  
2 16511.

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

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

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

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

17 (iii) He or she is under the supervision of an acupuncturist or  
18 a physician licensed under part 170 or part 175 when using the  
19 protocol described in subparagraph (ii).

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

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



1 (e) Dry needling by an individual licensed, registered, or  
2 otherwise authorized under any other part if dry needling is within  
3 the individual's scope of practice.

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

8 (2) On or before the expiration of 12 months after the  
9 effective date of the rules promulgated under section 16525, the  
10 department shall issue a license to an applicant who meets the  
11 requirements of section 16174 and 1 of the following:

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

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

25 Sec. 16517. (1) Notwithstanding the requirements of part 161,  
26 the department, in consultation with the board, shall promulgate  
27 rules requiring a licensee seeking renewal of a license to furnish  
28 the department with satisfactory evidence that during the license  
29 cycle immediately preceding the application for renewal the

1 licensee has attended continuing education courses or programs  
 2 approved by the board in subjects related to the practice of  
 3 acupuncture and designed to further educate licensees. An  
 4 individual is considered to have completed the continuing education  
 5 requirements described in this subsection if the department  
 6 determines that the individual has met the continuing education  
 7 standards of the National Certification Commission for Acupuncture  
 8 and Oriental Medicine or equivalent standards as determined by the  
 9 board.

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

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

20 (a) ~~Until June 30, 2010, 4~~ acupuncturists. Beginning July 1,  
 21 2010, **7** ~~Seven~~ acupuncturists. The members appointed under this  
 22 subdivision ~~shall~~ **must** meet the requirements of section 16135.

23 (b) Three physicians licensed under part 170 or 175, **at least**  
 24 **1 of whom has met the requirement in section 16513(2)(b)** .

25 (c) ~~Until June 30, 2010, 2~~ public members. Beginning July 1,  
 26 2010, **3** ~~Three~~ public members.

27 (2) The terms of office of individual members of the board  
 28 created under this part, except those appointed to fill vacancies,  
 29 expire ~~4 years after appointment~~ on June 30 of the year in which



1 the term expires **pursuant to section 16122.**

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

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

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

29       Enacting section 1. This amendatory act takes effect 90 days



1 after the date it is enacted into law.

