

# HOUSE BILL NO. 4467

April 25, 2023, Introduced by Reps. McFall and McKinney and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 16281, 16905, 18101, 18105, 18106, 18111, 18114, and 18117 (MCL 333.16281, 333.16905, 333.18101, 333.18105, 333.18106, 333.18111, 333.18114, and 333.18117), section 16281 as added and section 18117 as amended by 1998 PA 496, section 16905 as amended by 2006 PA 388, sections 18101 and 18111 as amended and sections 18106 and 18114 as added by 2019 PA 96, and section 18105 as amended by 2006 PA 429.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 16281. (1) If there is a compelling need for records or  
2 information to determine whether child abuse or child neglect has  
3 occurred or to take action to protect a child where there may be a  
4 substantial risk of harm, a ~~family independence agency~~ **department**  
5 **of health and human services** caseworker or administrator directly  
6 involved in the child abuse or **child** neglect investigation shall  
7 notify a licensee or registrant that a child abuse or **child** neglect  
8 investigation has been initiated regarding a child who has received  
9 services from the licensee or registrant and shall request in  
10 writing the child's medical records and information that are  
11 pertinent to that investigation. ~~Upon~~ **On the** receipt of this  
12 notification and request, the licensee or registrant shall review  
13 all of the child's medical records and information in the  
14 licensee's or registrant's possession to determine if there are  
15 medical records or information that is pertinent to that  
16 investigation. Within 14 days after receipt of a request made under  
17 this subsection, the licensee or registrant shall release those  
18 pertinent medical records and information to the **department of**  
19 **health and human services** caseworker or administrator directly  
20 involved in the child abuse or **child** neglect investigation.

21           (2) The following privileges do not apply to medical records  
22 or information released or made available under subsection (1):

23           (a) The physician-patient privilege created in section 2157 of  
24 the revised judicature act of 1961, 1961 PA 236, MCL 600.2157.

25           (b) The dentist-patient privilege created in section 16648.

26           (c) The licensed professional counselor-client and limited  
27 licensed **professional** counselor-client privilege created in section  
28 18117.

1 (d) The psychologist-patient privilege created in section  
2 18237.

3 (e) Any other health professional-patient privilege created or  
4 recognized by law.

5 (3) To the extent not protected by the immunity conferred by  
6 1964 PA 170, MCL 691.1401 to ~~691.1415~~, **691.1419**, an individual who  
7 in good faith provides access to medical records or information  
8 under this section is immune from civil or administrative liability  
9 arising from that conduct, unless the conduct was gross negligence  
10 or willful and wanton misconduct.

11 (4) This section does not apply to a report, record, datum, or  
12 information whose confidentiality and disclosure are governed by  
13 section 5131.

14 (5) A duty under this act relating to child abuse and **child**  
15 neglect does not alter a duty imposed under another statute,  
16 including the child protection law, 1975 PA 238, MCL 722.621 to  
17 722.638, regarding the reporting or investigation of child abuse or  
18 **child** neglect.

19 Sec. 16905. (1) This part does not apply to an individual  
20 engaged in the practice of social work as defined in part 185, in  
21 the course of employment with a governmental agency or a reputable  
22 social service agency regularly providing social work services as  
23 an agency.

24 (2) This part does not apply to an ordained cleric or other  
25 religious practitioner who is employed by or working under the  
26 authority of an organization exempt from taxation under section  
27 501(c)(3) of the internal revenue code of 1986, 26 USC 501, if the  
28 advice or counsel given by the cleric or other religious  
29 practitioner is incidental to ~~his or her~~ **the cleric's or other**

1 **religious practitioner's** duties as a cleric or other religious  
2 practitioner, and if the cleric or other religious practitioner  
3 does not hold ~~himself or herself~~ **the cleric or other religious**  
4 **practitioner** out to the public as a marriage and family therapist  
5 licensed under this article or use 1 or more of the titles listed  
6 in section 16903 and if no fee or donation is exacted for the  
7 service.

8 (3) This part does not apply to a physician licensed under  
9 this article who has completed an accredited psychiatric residency  
10 program approved by the Michigan board of medicine or to a  
11 psychologist fully licensed under this article, if both of the  
12 following circumstances exist:

13 (a) The individual is practicing ~~his or her~~ **the individual's**  
14 profession in a manner consistent with ~~his or her~~ **the individual's**  
15 education and training and is practicing in a manner consistent  
16 with the code of ethics of that profession.

17 (b) The individual does not hold ~~himself or herself~~ **the**  
18 **individual** out to the public as a marriage and family therapist  
19 licensed under this article or use any of the titles listed in  
20 section 16903 for advertising purposes. However, this subdivision  
21 does not prohibit the individual from advertising under a telephone  
22 or other business directory listing that uses those titles if the  
23 individual discloses in the listing, in an unabbreviated fashion,  
24 the profession in which ~~he or she~~ **the individual** is licensed.

25 (4) This part does not limit an individual in, or prevent an  
26 individual from, the practice of a statutorily regulated profession  
27 or occupation if services to families, couples, or subsystems of  
28 families are part of the services provided by that profession or  
29 occupation, and if the individual does not hold ~~himself or herself~~

1 **the individual** out to the public as a marriage and family therapist  
 2 licensed under this article or use 1 or more of the titles listed  
 3 in section 16903. As used in this subsection, "statutorily  
 4 regulated profession or occupation" means an occupation or  
 5 profession regulated by statute that includes, but is not limited  
 6 to, all of the following: a physician, attorney, social worker,  
 7 social service technician, fully licensed psychologist, limited  
 8 licensed psychologist, temporary limited licensed psychologist,  
 9 licensed professional counselor, limited licensed **professional**  
 10 counselor, or school counselor.

11 Sec. 18101. As used in this part:

12 (a) "Clinical counseling principles, methods, or procedures"  
 13 means 1 or more of the following:

14 (i) Psychotherapy, the diagnosis and treatment planning for  
 15 mental and emotional disorders, and evaluation.

16 (ii) Selecting, administering, scoring, and interpreting  
 17 assessments, tests, and appraisals that are designed to assess an  
 18 individual's aptitudes, interests, attitudes, abilities,  
 19 achievements, and personal characteristics in order to use  
 20 appraisal and diagnostic results in helping processes.

21 (iii) Psychoeducational consulting. As used in this  
 22 subparagraph, "psychoeducational consulting" means assisting a  
 23 consultee that is working with an individual, small group, or  
 24 organization by identifying problems, strengths, and weaknesses and  
 25 making recommendations for the implementation of preventative or  
 26 remedial strategies.

27 (iv) Counseling techniques. As used in this subparagraph:

28 (A) "Counseling techniques" means the application of basic  
 29 counseling and psychotherapy skills and theories in the counseling

1 process for the purposes of establishing and maintaining the  
2 counseling relationship; diagnosing the problem; formulating a  
3 preventative, treatment, or rehabilitative plan; and facilitating  
4 appropriate interventions.

5 (B) "Diagnosing the problem" means the identification of the  
6 problem through the application of recognized counseling techniques  
7 and psychotherapy skills and theories, including the use of the  
8 classifications and diagnoses in the Diagnostic and Statistical  
9 Manual for Mental Disorders, obtained through the successful  
10 completion of a qualified program. Diagnosing the problem does not  
11 include the identification of other medical or physical conditions.

12 (v) Behavioral modification techniques. As used in this  
13 subparagraph, "behavioral modification techniques" means assisting  
14 clients in identifying maladaptive or harmful behaviors and  
15 replacing them with adaptive and helpful behaviors.

16 (vi) Referral. As used in this subparagraph, "referral"  
17 includes determining the need for referral to 1 or more statutorily  
18 regulated mental health professionals whose expertise, skills, and  
19 competence are appropriate to the problems of the individual,  
20 informing the individual of the referral, and communicating as  
21 appropriate with the professional to whom the individual has been  
22 referred.

23 (vii) Preventative techniques. As used in this subparagraph,  
24 "preventative techniques" means assisting a client in maintaining  
25 mental and emotional well-being and preventing emotional distress  
26 and mental illness.

27 (viii) Establishing a counseling plan for the treatment of 1 or  
28 more of the following disorders of an individual, couple, group, or  
29 family:

1 (A) An emotional disorder.

2 (B) A mental disorder.

3 (C) An addiction disorder.

4 (D) A physical disorder that requires a counseling  
5 intervention.

6 (ix) Promoting mental health wellness. As used in this  
7 subparagraph, "mental health wellness" means the achievement of  
8 social, career, and emotional development across an individual's  
9 life span.

10 (x) Preventing and treating mental and emotional disorders. As  
11 used in this subparagraph, "preventing and treating mental and  
12 emotional disorders" includes the use of crisis intervention.

13 (b) "Licensed professional counselor" means an individual who  
14 is licensed under this article to engage in the practice of  
15 counseling without supervision.

16 (c) "Limited licensed **professional** counselor" or "**limited**  
17 **licensed counselor**" means an individual who has been granted a  
18 limited license under this article to engage in the practice of  
19 counseling under the supervision of a licensed professional  
20 counselor who meets the requirement of section 18106.

21 (d) Except as otherwise provided in subdivision (e), "practice  
22 of counseling" or "counseling" means the rendering to individuals,  
23 groups, families, organizations, or the general public in  
24 accordance with accepted and established ethics a service involving  
25 clinical counseling principles, methods, or procedures for the  
26 purpose of achieving social, personal, career, and emotional  
27 development and with the goal of promoting and enhancing healthy  
28 self-actualizing and satisfying lifestyles whether the services are  
29 rendered in an educational, business, health, private practice, or

1 human services setting.

2 (e) The practice of counseling does not include the practice  
3 of psychology except for those preventive techniques, counseling  
4 techniques, or behavior modification techniques for which the  
5 licensed professional counselor or limited licensed **professional**  
6 counselor has been specifically trained. The practice of counseling  
7 does not include the practice of medicine or osteopathic medicine  
8 and surgery, including, but not limited to, the differential  
9 diagnosis of medical conditions or disorders, prescribing drugs, or  
10 administering electroconvulsive therapy. A counselor shall not hold  
11 ~~himself or herself~~ **the counselor** out as any of the following:

12 (i) A psychologist as **that term is** defined in section 18201.

13 (ii) A marriage and family therapist as **that term is** defined in  
14 section 16901.

15 (iii) A licensed bachelor's social worker or a licensed master's  
16 social worker as those terms are defined in section 18501.

17 (f) "Qualified program" means any of the following:

18 (i) A program that is accredited by the Council for the  
19 Accreditation of Counseling and Related Educational Programs,  
20 includes coursework and training in the diagnosis and treatment of  
21 mental and emotional disorders, and is approved by the department  
22 in consultation with the board.

23 (ii) A program that is not accredited by the Council for the  
24 Accreditation of Counseling and Related Educational Programs,  
25 includes coursework and training in the diagnosis and treatment of  
26 mental and emotional disorders and all other coursework  
27 requirements of the Council for the Accreditation of Counseling and  
28 Related Educational Programs, including practicum and internship  
29 requirements, and is approved by the department in consultation



1 with the board.

2       Sec. 18105. (1) A licensee shall not perform any acts, tasks,  
3 or functions within the practice of counseling unless ~~he or she~~ **the**  
4 **licensee** is trained to perform such acts, tasks, or functions.

5       (2) ~~Effective October 1, 1990, a person~~ **An individual** shall  
6 not engage in the practice of counseling unless licensed or  
7 otherwise authorized under this article.

8       (3) The following words, titles, or letters or a combination  
9 thereof, with or without qualifying words or phrases, are  
10 restricted in use only to those ~~persons~~ **individuals** authorized  
11 under this part to use the terms and in a way prescribed in this  
12 part: "licensed professional counselor", "licensed counselor",  
13 "professional counselor", ~~and~~ "l.p.c.", **"limited licensed**  
14 **professional counselor", and "l.l.p.c."**.

15       Sec. 18106. A licensed professional counselor shall not  
16 supervise a limited licensed **professional** counselor without  
17 completing training in supervision as required by rules promulgated  
18 by the department in consultation with the board.

19       Sec. 18111. (1) Subject to subsection (3), the department may  
20 grant a limited license to an individual who meets both of the  
21 following criteria:

22       (a) Is not less than 18 years of age.

23       (b) Has received, from an accredited college or university  
24 approved by the department, a master's or doctoral degree in  
25 counseling from a qualified program, or a degree determined by the  
26 department in consultation with the board to be substantially  
27 equivalent to a counseling degree from a qualified program. The  
28 department in consultation with the board shall promulgate rules to  
29 establish standards to approve qualified programs.

1 (2) A limited license granted under this section must require  
 2 that the individual confine ~~his or her~~ **the individual's** practice to  
 3 a program of counseling experience under the supervision of a  
 4 licensed professional counselor.

5 (3) The department in consultation with the board shall  
 6 promulgate rules under section 16145 as necessary or appropriate to  
 7 supplement the requirements for licensure under this part as a  
 8 limited licensed **professional** counselor, including adopting updated  
 9 standards of the Council for the Accreditation of Counseling and  
 10 Related Educational Programs or a successor organization.

11 Sec. 18114. (1) Except as otherwise provided in subsection  
 12 (3), the department may grant relicensure as a licensed  
 13 professional counselor or limited licensed **professional** counselor  
 14 to an individual who is applying for relicensure less than 3 years  
 15 after the expiration date of ~~his or her~~ **the individual's** license,  
 16 if the individual submits to the department a completed application  
 17 on a form provided by the department together with payment of the  
 18 fees described in section 16201(3), and ~~he or she~~ **the individual**  
 19 complies with both of the following:

20 (a) Submits with ~~his or her~~ **the individual's** application a  
 21 professional disclosure statement that meets the requirements of  
 22 section 18113.

23 (b) If the individual holds or has held a license as a  
 24 licensed professional counselor or limited licensed **professional**  
 25 counselor in another state, ensures that the licensing agency of  
 26 each out-of-state license verifies all of the following on a form  
 27 provided by the department:

28 (i) That disciplinary proceedings are not pending against the  
 29 individual at the time of ~~his or her~~ **the individual's** application

1 for relicensure.

2 (ii) That if sanctions have been imposed against the  
3 individual, the sanctions are not in force at the time of ~~his or~~  
4 ~~her~~ **the individual's** application for relicensure.

5 (2) Except as otherwise provided in subsection (3), the  
6 department may grant relicensure as a licensed professional  
7 counselor or limited licensed **professional** counselor to an  
8 individual who is applying for relicensure more than 3 years after  
9 the expiration date of ~~his or her~~ **the individual's** license, if the  
10 individual submits to the department a completed application on a  
11 form provided by the department together with payment of the fees  
12 described in section 16201(4) and a professional disclosure  
13 statement that meets the requirements of section 18113, and ~~he or~~  
14 ~~she~~ **the individual** complies with 1 of the following:

15 (a) Takes or retakes and passes 1 of the following:

16 (i) The national counselor examination developed by the  
17 National Board for Certified Counselors.

18 (ii) The certification examination given by the Commission on  
19 Rehabilitation Counselor Certification.

20 (iii) An examination that the department determines is  
21 equivalent to an examination described in subparagraph (i) or (ii).

22 (b) Demonstrates to the satisfaction of the department that ~~he~~  
23 ~~or she~~ **the individual** meets the requirements for certification  
24 issued by the National Board for Certified Counselors, the  
25 Commission on Rehabilitation Counselor Certification, or an  
26 equivalent program as determined by the department.

27 (3) The department may grant relicensure as a licensed  
28 professional counselor or limited licensed **professional** counselor  
29 to an individual who received a master's or doctoral degree in

1 counseling or student personnel work before October 1, 1991, and  
2 completed 2 years of professional experience before October 1,  
3 1993, if the individual submits to the department a completed  
4 application on a form provided by the department together with  
5 payment of the applicable fees described in section 16201(3) or (4)  
6 and ~~he or she~~ **the individual** complies with 1 of the following:

7 (a) Submits with ~~his or her~~ **the individual's** application a  
8 professional disclosure statement that meets the requirements of  
9 section 18113.

10 (b) If the individual holds or has held a license as a  
11 licensed professional counselor or limited licensed **professional**  
12 counselor in another state, ensures that the licensing agency of  
13 each out-of-state license verifies all of the following on a form  
14 provided by the department:

15 (i) That disciplinary proceedings are not pending against the  
16 individual at the time of ~~his or her~~ **the individual's** application  
17 for relicensure.

18 (ii) That if sanctions have been imposed against the  
19 individual, the sanctions are not in force at the time of ~~his or~~  
20 ~~her~~ **the individual's** application for relicensure.

21 Sec. 18117. For the purposes of this part, the confidential  
22 relations and communications between a licensed professional  
23 counselor or a limited licensed **professional** counselor and a client  
24 of the licensed professional counselor or a limited licensed  
25 **professional** counselor are privileged communications, and this part  
26 does not require a privileged communication to be disclosed, except  
27 as otherwise provided by law. Confidential information may be  
28 disclosed only upon consent of the client, pursuant to section  
29 16222 if the licensee reasonably believes it is necessary to

- 1 disclose the information to comply with section 16222, or under
- 2 section 16281.