PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978
Article 15
OCCUPATIONS
Part 161
GENERAL PROVISIONS

333.16101 Meanings of words and phrases; general definitions and principles of construction.

Sec. 16101.

(1) For purposes of this article, the words and phrases defined in sections 16103 to 16109a have the meanings ascribed to them in those sections unless the context requires a different meaning.

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

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2021, Act 167, Imd. Eff. Dec. 27, 2021
Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws. For transfer of rule-making authority of occupational and health occupation boards and related task forces from the department of commerce to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.For transfer of powers and duties of the bureau of health services from the department of consumer and industry services to the director of the department of community health by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.
Popular Name: Act 368

333.16103 Definitions; A to C.

Sec. 16103.

(1) "Armed forces" means the United States Army, Air Force, Navy, Marine Corps, Space Force, or Coast Guard or other military force designated by Congress as part of the Armed Forces of the United States, including the reserve components.

(2) "Board" as used in this part means each board created in this article and as used in any other part covering a specific health profession means the board created in that part.

(3) "Certificate of licensure" means a document issued as evidence of authorization to practice and use a designated title.

(4) "Certificate of registration" means a document issued as evidence of authorization to use a designated title.

(5) "Controlled substance" means that term as defined in section 7104.

(6) "Conviction" means a judgment entered by a court on a plea of guilty, guilty but mentally ill, or nolo contendere or on a jury verdict or court finding that a defendant is guilty or guilty but mentally ill.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2021, Act 25, Eff. Sept. 7, 2021
Popular Name: Act 368

333.16103a â€œCommitteeâ€ defined.

Sec. 16103a.

"Committee" means the health professional recovery committee created in section 16165.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16104 Definitions; D to G.

Sec. 16104.

(1) "DEA registration number" means the number associated with a certificate of registration issued to a practitioner to prescribe, dispense, or administer controlled substances by the United States Department of Justice Drug Enforcement Administration.

(2) "Delegation" means an authorization granted by a licensee to a licensed or unlicensed individual to perform selected acts, tasks, or functions that fall within the scope of practice of the delegator and that are not within the scope of practice of the delegatee and that, in the absence of the authorization, would constitute illegal practice of a licensed profession.

(3) "Department" means the department of licensing and regulatory affairs.

(4) "Director" means the director of the department or the director's designee.

(5) "Disciplinary subcommittee" means a disciplinary subcommittee appointed under section 16216.

(6) "Good moral character" means good moral character as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011 ;-- Am. 2020, Act 371, Eff. Apr. 4, 2021
Popular Name: Act 368

333.16105 Definitions; H.

Sec. 16105.

(1) "Health occupation" means a health related vocation, calling, occupation, or employment performed by an individual whether or not the individual is licensed or registered under this article.

(2) "Health profession" means a vocation, calling, occupation, or employment performed by an individual acting pursuant to a license or registration issued under this article.

(3) "Health profession specialty field" means an area of practice established under this article that is within the scope of activities, functions, and duties of a licensed health profession and that requires advanced education and training beyond that required for initial licensure.

(4) "Health profession specialty field license" means an authorization to use a title issued to a licensee who has met qualifications established by the Michigan board of dentistry for registration in a health profession specialty field. An individual who holds a dental specialty certification on the effective date of the amendatory act that added this subsection is considered to hold a health profession specialty field license in that speciality and may obtain renewal of the health profession specialty field license in that speciality on the expiration date of the specialty certification. The health profession specialty field license is not a license as that term is defined in section 16106(2).

(5) "Health profession subfield" means an area of practice established under this article which is within the scope of the activities, functions, and duties of a licensed health profession, and requires less comprehensive knowledge and skill than is required to practice the full scope of the health profession.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002
Popular Name: Act 368

333.16105a â€œHealth professional recovery programâ€ defined.

Sec. 16105a.

"Health professional recovery program" or "program" means a nondisciplinary, treatment-oriented program for impaired health professionals established under section 16167.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16106 Definitions; I to L.

Sec. 16106.

(1) "Incompetence" means a departure from, or failure to conform to, minimal standards of acceptable and prevailing practice for a health profession, whether or not actual injury to an individual occurs.
(2) "License", except as otherwise provided in this subsection and section 17708(2), means an authorization issued under this article to practice where practice would otherwise be unlawful. License includes an authorization to use a designated title which use would otherwise be prohibited under this article and may be used to refer to a health profession subfield license, limited license, or a temporary license. License does not include a health profession specialty field license.
(3) "Licensee", as used in a part that regulates a specific health profession, means an individual to whom a license is issued under that part, and as used in this part means each licensee regulated by this article.
(4) "Limitation" means an action by which a board imposes restrictions or conditions, or both, on a license.
(5) "Limited license" means a license to which restrictions or conditions, or both, as to scope of practice, place of practice, supervision of practice, duration of licensed status, or type or condition of patient or client served are imposed by a board.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1997, Act 153, Eff. Mar. 31, 1998 ;-- Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002 ;-- Am. 2022, Act 80, Eff. Mar. 29, 2023
Popular Name: Act 368

333.16106a Definitions.

Sec. 16106a.

"Impaired" or "impairment" means the inability or immediately impending inability of a health professional to practice his or her health profession in a manner that conforms to the minimum standards of acceptable and prevailing practice for that health profession due to the health professional's substance abuse, chemical dependency, or mental illness or the health professional's use of drugs or alcohol that does not constitute substance abuse or chemical dependency. As used in this section:
(a) "Chemical dependency" means a group of cognitive, behavioral, and physiological symptoms that indicate that an individual has a substantial lack of or no control over the individual's use of 1 or more psychoactive substances.
(b) "Mental illness" means that term as defined in section 400 of the mental health code, 1974 PA 258, MCL 330.1400.
(c) "Substance abuse" means substance use disorder as defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2012, Act 501, Eff. Jan. 1, 2013
Popular Name: Act 368

333.16107 Definitions; P.

Sec. 16107.

(1) "Permanent revocation" means the permanent cancellation or withdrawal of a license, registration, or authorization to engage in the practice of a health profession under this article that is issued by the department, board, or task force.

(2) "Probation" means a sanction that permits a board to evaluate over a period of time a licensee's or registrant's fitness to continue to practice under a license or registration.

(3) "Public member" means a member of the general public who is not a licensee or registrant, is a resident of this state, is not less than 18 years of age, and does not have a material financial interest in the provision of health services and has not had a material financial interest within the 12 months before appointment.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2014, Act 410, Eff. Mar. 30, 2015
Popular Name: Act 368

333.16108 Definitions; R.

Sec. 16108.

(1) "Reclassification" means an action by a disciplinary subcommittee by which restrictions or conditions, or both, applicable to a license are added or removed.

(2) "Registration" means an authorization only for the use of a designated title which use would otherwise be prohibited under this article. Registration includes specialty certification of a licensee and a health profession specialty field license.

(3) "Registrant" as used in a part that regulates the use of a title means an individual to whom a registration, a specialty certification, or a health profession specialty field license is issued under that part, and as used in this part means each registrant regulated by this article.

(4) "Reinstatement" means the granting of a license or certificate of registration, with or without limitations or conditions, to an individual whose license or certificate of registration has been suspended or revoked.

(5) "Relicensure" means the granting of a license to an individual whose license has lapsed for failure to renew the license within 60 days after the expiration date.

(6) "Reregistration" means the granting of a certificate of registration to an individual whose certificate of registration has lapsed for failure to renew the certificate within 60 days after the expiration date.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1988, Act 462, Eff. Sept. 1, 1989 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002
Popular Name: Act 368

333.16109 Definitions; S to U.

Sec. 16109.

(1) "Specialty certification" means an authorization to use a title by a licensee who has met qualifications established by a board for registration in a health profession specialty field.

(2) "Supervision", except as otherwise provided in this article, means the overseeing of or participation in the work of another individual by a health professional licensed under this article in circumstances where at least all of the following conditions exist:

(a) The continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional.

(b) The availability of a licensed health professional on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual's functions.

(c) The provision by the licensed supervising health professional of predetermined procedures and drug protocol.

(3) "Task force" means a task force created by this article.

(4) "Temporary license" means a license of limited duration granted to an applicant who has completed all requirements for licensure except an examination or other required evaluation procedure.

(5) "Uniformed services" means the Commissioned Corps of the United States Public Health Service and the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1991, Act 58, Imd. Eff. June 27, 1991 ;-- Am. 2021, Act 25, Eff. Sept. 7, 2021
Popular Name: Act 368

333.16109a â€œTreatmentâ€ or â€œtreatment planâ€ defined.

Sec. 16109a.

"Treatment" or "treatment plan" means a plan of care and rehabilitation services provided to impaired licensees, registrants, and applicants.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16111 Applicability of part; part controlling over other parts in article; effect of part on other licenses and registrants.

Sec. 16111.

(1) This part applies to health professions, but, except for sections 16201, 16261, 16299, 16301, 16303, 16305, and 16307, does not apply to any of the following regulated under part 177:

(a) A pharmacy.

(b) A dispensing prescriber.

(c) A drug manufacturer.

(d) A wholesale distributor.

(e) A wholesale distributor-broker.

(2) Except as otherwise provided by this article, this part controls over all other parts in this article.

(3) A part in this article does not prohibit a licensee under another part or other law of this state from performing activities and using designated titles authorized by a license issued to him or her under that other part or other law of this state.

(4) A part in this article does not prohibit a registrant under another part or other state law from using designated titles authorized by a registration issued to him or her under that other part or other state law.

(5) This article does not prohibit a licensee from advising a patient to seek professional services or advice from another person.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1988, Act 462, Eff. Sept. 1, 1989 ;-- Am. 2006, Act 392, Imd. Eff. Sept. 27, 2006 ;-- Am. 2020, Act 142, Imd. Eff. July 14, 2020
Popular Name: Act 368

333.16113 Repealed. 2020, Act 245, Eff. June 30, 2021.

Compiler's Notes: The repealed section pertained to the administration of COVID-19 testing.
Popular Name: Act 368

333.16115 Board created as successor to former board with same or similar name.

Sec. 16115.

A board created by this article is the successor to the board with the same or similar name created or continued by a statute repealed by this code.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.16121 Board or task force; appointment of members; vacancy; nominations; removal or suspension of member.

Sec. 16121.

(1) The governor shall appoint by and with the advice and consent of the senate the members of the boards and task forces except ex officio members.
(2) A vacancy on a board or task force shall be filled for the balance of the unexpired term in the same manner as the original appointment. An appointment for a vacancy shall be submitted to the senate not later than 60 days after the vacancy occurs.
(3) The governor shall seek nominations from a wide range of sources including professional associations, educational institutions, consumer organizations, labor unions, health planning agencies, and other community health organizations when making appointments under this article.
(4) The governor may remove or suspend a board or task force member from office in accordance with section 10 of article 5 of the state constitution of 1963.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16122 Board or task force; terms.

Sec. 16122.

Except as otherwise provided in this article, the term of office of members of a board or task force is 4 years, commencing on the day after the date prescribed in each respective part and terminating on the prescribed date. A member shall not serve more than 2 terms and 1 partial term, consecutive or otherwise, including service on a predecessor council, board, or task force. However, a member serving when this section takes effect may complete the term to which the member was appointed.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 392, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.16123 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.

Compiler's Notes: The repealed section pertained to membership of council.
Popular Name: Act 368

333.16125 Licensing board; membership.

Sec. 16125.

A licensing board shall be composed of a majority of members licensed in the health profession which that board licenses. The board shall include at least 1 public member. The director shall be an ex officio member without vote, but is not a member for the purposes of section 5 of article 5 of the state constitution of 1963 or for determining a quorum. If a licensed health profession subfield is created by this article, the board shall include at least 1 licensee from each subfield. If a health profession subfield task force is created by this article, 1 licensee from each subfield so appointed to the board shall also be appointed as a member of the health profession subfield task force. If a certified health profession specialty field task force is created by this article, 1 member of the board holding a license other than a health profession subfield license shall also be appointed to the specialty field task force.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1989, Act 202, Imd. Eff. Oct. 23, 1989
Popular Name: Act 368

333.16126 Registration board; membership.

Sec. 16126.

A registration board shall be composed of a majority of members registered in the profession which that board registers. The board shall include at least 1 public member. The director shall be an ex officio member without vote, but is not a member for the purposes of section 5 of article 5 of the state constitution of 1963 or for determining a quorum.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.16128 Health profession subfield task force and health profession specialty field task force; membership.

Sec. 16128.

(1) A health profession subfield task force shall be composed of a majority of members licensed in the subfields of the health profession that are created by this article and shall include at least 1 licensed member from each of the subfields of the health profession that is created by this article. A health profession subfield task force shall include at least 1 public member and 1 member of that profession who holds a license other than a subfield license in that health profession.

(2) A health profession specialty field task force shall be composed of a majority of members registered in the specialty fields of the health profession that are created by this article. A health profession specialty field task force shall include at least 1 public member and 1 member of that health profession who is a member of the board.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002
Popular Name: Act 368

333.16131 Repealed. 2006, Act 392, Imd. Eff. Sept. 27, 2006

Compiler's Notes: The repealed section pertained to terms of office of members of boards and task forces.
Popular Name: Act 368

333.16132 Expired. 1978, Act 368, Eff. Sept. 30, 1983.

Compiler's Notes: The expired section pertained to the extension of certain terms of board members.
Popular Name: Act 368

333.16134 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.

Compiler's Notes: The repealed section pertained to appointment of health profession subfield licenses.
Popular Name: Act 368

333.16135 Board, committee, or task force; qualifications of members.

Sec. 16135.

(1) Except as otherwise provided in subsection (2), a member of a board, the committee, or a task force created by this article must meet all of the following requirements:

(a) Be 18 or more years of age.

(b) Be of good moral character.

(c) Be a resident of this state for not less than the 6 months immediately preceding appointment and remain a resident of this state throughout the term of the appointment.

(d) Be currently licensed or registered in this state if licensure or registration in a health profession is a requirement for membership. The member must have actively practiced that profession or taught in an approved educational institution that prepares applicants for licensure or registration in that profession, or a combination of both, in any state for not less than the 2 years immediately preceding appointment.

(e) Not be a spouse, parent, child, or sibling of another member of the board, committee, or task force and meet this requirement throughout the term of the appointment.

(f) Not provide supervision over or be under the supervision of another member of the board, committee, or task force and meet this requirement throughout the term of the appointment.

(2) Subject to subsection (3), the governor may appoint as a member of a board who is required to be licensed or registered under subsection (1)(d) an individual who meets either or both of the following requirements:

(a) Is certified or otherwise approved by a national organization that certifies or otherwise approves individuals in the profession to be licensed or registered by the board.

(b) Has actively practiced the profession licensed or registered by the board or taught in an educational institution that prepares applicants for licensure or registration in that profession, or a combination of both, for not less than the 2 years immediately preceding his or her appointment.

(3) An individual appointed under subsection (2) must be licensed or registered under this article in the profession licensed or registered by that board within 3 years after the effective date of the amendatory act that created the board.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1988, Act 421, Eff. Mar. 30, 1989 ;-- Am. 1988, Act 473, Imd. Eff. Dec. 28, 1988 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2014, Act 413, Eff. Mar. 30, 2015
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.16137 Board, committee, or task force; compensation and expenses of members.

Sec. 16137.

The legislature annually shall fix the per diem compensation of the members of the council, the committee, the boards, and the task forces. Expenses of members incurred in the performance of official duties shall be reimbursed as provided in section 1216.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16138 Board, committee, or task force; meetings; quorum; final action; voting by proxy prohibited; times and places of meetings; minutes; record of actions; meetings open to public.

Sec. 16138.

(1) A board, the committee, or a task force shall hold regular meetings at places and on separate dates fixed by it. The committee shall meet not less than quarterly. Special meetings may be called by the chairperson, by a majority of the members of the committee, a board, or a task force, or by the department. Except as otherwise provided in this article or in the bylaws of the committee, a board, or a task force, a majority of the members appointed and serving constitute a quorum. Final action by the committee, a board, or a task force shall be taken only by affirmative vote of a majority of the members present at a meeting or for a hearing. A member shall not vote by proxy.

(2) The department shall make available the times and places of meetings of the boards and the task forces and keep minutes of their meetings and a record of their actions. Meetings of a board, or a task force shall be open to the public in accordance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.16139 Board or task force; election of chairperson or vice-chairperson; selection and terms of officers; vacancy; presiding officer.

Sec. 16139.

A board or a task force shall elect annually a chairperson and vice-chairperson at the first meeting held after the date set forth in each respective part. The committee shall elect annually a chairperson and vice-chairperson at the first meeting of each calendar year. The officers shall be selected from board, committee, or task force members and shall hold office for 1 year or until their successors are elected and qualified. The committee, a board, or a task force may fill a vacancy in the office of chairperson or vice-chairperson for the balance of the unexpired term. The chairperson shall preside at meetings, and if absent or unable to preside, the vice-chairperson shall preside.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 392, Imd. Eff. Sept. 27, 2006
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.16141 Committee, board, or task force; office services; offices, records, and money; managerial and administrative functions; administrative and secretarial staff, clerks, and employees; salaries and expenses; rules.

Sec. 16141.

(1) The department shall furnish office services to the committee, the boards, and the task forces; have charge of their offices, records, and money collected; and perform managerial and administrative functions for them.

(2) The department shall appoint administrative and secretarial staff, clerks, and employees necessary to allow the proper exercise of the powers and duties of the committee, a board, or a task force. Salaries and other expenses incurred by the committee, a board, or a task force and staff and expenses for studies and activities authorized under this article must be paid out of funds appropriated by the legislature for those purposes.

(3) The department may promulgate rules to promote the effective and consistent administration of this article. However, except as provided in a specific part of this article, the department shall not promulgate rules that constitute the licensure, registration, or examination of health professionals.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2024, Act 39, Eff. Apr. 2, 2025
Popular Name: Act 368
Admin Rule: R 338.951 et seq. of the Michigan Administrative Code.

333.16143 Committee, board, or task force; bylaws; annual report; actions and determinations; contracts for assistance.

Sec. 16143.

(1) The committee, a board, or a task force may adopt bylaws for the regulation of its internal affairs.

(2) The committee, a disciplinary subcommittee, a board, or a task force shall report its activities annually to the department. The report shall include statistical data on applicants for examination, licensure, and registration; allegations and disciplinary actions against licensees and registrants; and other matters relating to the licensure, registration, and regulatory activity of the boards or a task force as prescribed by the department.

(3) The committee, a disciplinary subcommittee, a board, or a task force may perform acts and make determinations necessary and proper to carry out its functions and the department may contract with other state agencies, private agencies, organizations, and consultants to assist the committee, disciplinary subcommittee, board, or task force to perform the acts or to aid in carrying out functions of the committee, board, or task force.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.16145 Board or task force; official seal; rules.

Sec. 16145.

(1) A board may adopt and have an official seal.

(2) A board or task force may promulgate rules necessary or appropriate to fulfill its functions under this article.

(3) Except as provided in a specific part of this article, only a board or task force shall promulgate rules to specify requirements for licenses, registrations, renewals, examinations, and required passing scores.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2024, Act 39, Eff. Apr. 2, 2025

Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€

Popular Name: Act 368

Admin Rule: R 325.321 et seq.; R 338.91 et seq.; R 338.101 et seq.; R 338.121; R 338.241; R 338.251 et seq.; R 338.281; R 338.291; R 338.311 et seq.; R 338.471 et seq.; R 338.1161; R 338.1201 et seq.; R 338.2301 et seq.; R 338.2501 et seq.; R 338.3001 et seq.; R 338.3031; R 338.3101 et seq.; R 338.3601 et seq.; R 338.3701 et seq.; R 338.3821; R 338.3901 et seq.; R 338.3921; R 338.4101 et seq.; R 338.4601; R 338.4901 et seq.; R 338.4971 et seq.; R 338.7101 et seq.; R 338.7201 et seq.; R 338.10101 et seq.; R 338.11101 et seq.; R 338.12001 et seq.; and R 340.801 et seq. of the Michigan Administrative Code.

333.16146 Board; granting license or registration.

Sec. 16146.

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

(2) A board which grants licenses may:

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

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

(c) Upon good cause, request that a licensee or registrant have a criminal history check conducted in accordance with section 16174(3).

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1988, Act 462, Eff. Sept. 1, 1989 ;-- Am. 2006, Act 26, Imd. Eff. Feb. 17, 2006

Popular Name: Act 368

333.16147 Department or board; order, rule, or other method requiring a national or regional certification as condition for licensure or renewal; prohibit.

Sec. 16147.

Notwithstanding any provision of this act to the contrary, the department or the board of medicine or board of osteopathic medicine and surgery shall not by order, rule, or other method require a physician applicant or licensee under its jurisdiction to maintain a national or regional certification that is not otherwise specifically required in this article before it issues a license or license renewal to that physician applicant or licensee under this article.

History: Add. 2018, Act 486, Imd. Eff. Dec. 27, 2018

Popular Name: Act 368

333.16148 Rules; establishing standards for education and training for practice of health profession; training standards for identifying victims of human trafficking; accreditation of training programs; requirements for action or decision; voting; applicability of R 338.10305 to certain members of nursing

faculties.

Sec. 16148.

(1) Except as otherwise provided in this section or section 17060, the department, in consultation with a board, may promulgate rules to establish standards for the education and training of individuals to be licensed or registered, or whose licenses or registrations are to be renewed, for the purposes of determining whether graduates of a training program have the knowledge and skills requisite for practice of a health profession or use of a title. By 2 years after the effective date of the amendatory act that added this sentence, the department shall promulgate rules to include training standards for identifying victims of human trafficking required for individuals licensed or registered under this article, except those licensed under part 188 or subject to section 17060. The training standards for identifying victims of human trafficking shall apply for a license or registration renewal beginning with the first renewal cycle after the rules are promulgated and for an initial license or registration issued 5 or more years after the rules are promulgated.

(2) Except as otherwise provided in section 17060 and subject to subsections (6) and (7), only a board may accredit training programs in hospitals, schools, colleges, universities, and institutions offering training programs meeting educational standards and may deny or withdraw accreditation of training programs for failure to meet established standards. The board shall give a hospital, school, college, university, or institution that has its program accreditation withdrawn an opportunity for a hearing.

(3) The board shall take action or make a decision under subsection (1) or (2) relating to a specific health profession subfield only after consultation with the task force in the affected health profession subfield and with at least 1 of the affected health profession subfield board members present.

(4) A member of a licensing board from the health profession subfield shall vote as an equal member in all matters except those issues designated in subsections (1) and (2) that are outside the health profession subfield.

(5) A decision of a board on standards for the education and training of individuals or the accreditation of a training program under subsection (1) or (2) must be concurred in by a majority of the board members who are not health profession subfield licensees if the decision relates solely to licenses that are not health profession subfield licenses.

(6) The requirement of subsection (2)(b)(iii) of R 338.10305 of the Michigan administrative code, that each member of the nursing faculty in a program of nursing education for registered nurses who provides instruction in the clinical laboratory or cooperating agencies hold a baccalaureate degree in nursing science does not apply to a member of the nursing faculty described in this subsection who meets both of the following requirements:

(a) Was employed by or under contract to a program of nursing education on or before September 1, 1989.

(b) Is employed by or under contract to a program of nursing education on June 29, 1995.

(7) The requirement of subsection (2)(c)(ii) of R 338.10305 of the Michigan administrative code, that each member of the nursing faculty in a program of nursing education for licensed practical nurses hold a baccalaureate degree in nursing science does not apply to a member of the nursing faculty described in this subsection who meets both of the following requirements:

(a) Was employed by or under contract to a program of nursing education on or before September 1, 1989.

(b) Is employed by or under contract to a program of nursing education on June 29, 1995.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1995, Act 115, Imd. Eff. June 29, 1995 ;-- Am. 2014, Act 343, Eff. Jan. 14, 2015
Compiler's Notes: In subsections (6) and (7), the references to "subsection" evidently should read "subrule."
Popular Name: Act 368
Admin Rule: R 325.321 et seq.; R 338.91 et seq.; R 338.101 et seq.; R 338.251 et seq.; R 338.281; R 338.291; R 338.311 et seq.; R 338.471a et seq.; R 338.1201 et seq.; R 338.3031; R 338.3701 et seq.; R 338.4101 et seq.; and R 340.801 et seq. of the Michigan Administrative Code.

333.16151-333.16156 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.

Compiler's Notes: The repealed sections pertained to creation, duties, and powers of health occupations council, and recommended licensure or registration.
Popular Name: Act 368

333.16158 Repealed. 1986, Act 77, Imd. Eff. Apr. 7, 1986.

Compiler's Notes: The repealed section pertained to studies and recommendations of health occupations council.
Popular Name: Act 368

333.16161 Health profession subfield task force and health profession specialty field task force; function.

Sec. 16161.

(1) If a health profession subfield task force is created for a health profession, that task force shall serve as the task force for all health profession subfields within the scope of practice of the health profession and shall function as set forth in this part.

(2) If a health profession specialty field task force is created for a health profession, that task force shall serve as the task force for all health profession specialty fields within the scope of practice of the health profession and shall function as set forth in this part.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1989, Act 202, Imd. Eff. Oct. 23, 1989
Popular Name: Act 368

333.16163 Task force; recommendations to board.

Sec. 16163.

A task force shall recommend to the board as to:

(a) Determination of standards of education, training, and experience required for practice in a health profession subfield or for registration in a health profession specialty field, and where appropriate, guidelines for approval of educational programs for the health profession subfield or health profession specialty field.

(b) Qualifications required of applicants for licensure in health profession subfields or for registration in health profession specialty fields.

(c) Evaluation of qualifications for initial and continuing licensure of practitioners in health profession subfields or health profession specialty fields. The evaluation may cover assessment of educational credentials, work experience and related training, and administration of tests and examinations.

(d) Guidelines for utilization of, and standards of practice for, licensees in health profession subfields or registrants in health profession specialty fields.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002
Popular Name: Act 368

333.16165 Health professional recovery committee; creation; appointment of members; ex officio member; qualifications.

Sec. 16165.

(1) The health professional recovery committee is created in the department and shall consist of the following voting members, appointed as follows:

(a) Subject to subsection (4), each board created under this article and the physician's assistants task force, in consultation with the appropriate professional associations, shall appoint 1 health professional member.

(b) The director shall appoint 2 public members, 1 of whom has specialized training or experience, or both, in treatment of individuals with addictive behavior.

(2) The director shall serve as an ex officio member of the committee without vote.

(3) The director and the boards and the physician's assistants task force shall not appoint as a member of the committee an individual who is at the time of appointment a member of a board or task force.

(4) The members appointed by the boards and the physician's assistants task force under subsection (1)(a) shall have education, training, and clinical expertise in the treatment of individuals with addictive behavior or mental illness, or both.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16166 Committee; term; vacancy.

Sec. 16166.

The term of office of an appointed member of the committee is 2 years, commencing on January 1 and terminating on December 31. An appointed member shall not serve more than 2 terms and 1 partial term, consecutive or otherwise. A board or the physician's assistants task force or the director shall fill a vacancy for the balance of the unexpired term in the same manner as the original appointment.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16167 Committee; duties.

Sec. 16167.

The committee shall do all of the following:

(a) Establish the general components of the health professional recovery program and a mechanism for monitoring health professionals who may be impaired.

(b) Subject to sections 16169 and 16170 and in conjunction with the health professional recovery program consultants described in section 16168, develop and implement criteria for the identification, assessment, and treatment of health professionals who may be impaired.

(c) In conjunction with the health professional recovery program consultants described in section 16168, develop and implement mechanisms for the evaluation of continuing care or aftercare plans for health professionals who may be impaired.

(d) Develop a mechanism and criteria for the referral of a health professional who may be impaired to a professional association when appropriate for the purpose of providing assistance to the health professional. In developing criteria under this subdivision, the committee shall require that a referral be made only with the consent of the health professional.

(e) Annually report to each board and the physician's assistants task force created under this article on the status of the health professional recovery program. The committee shall include in the report, at a minimum, statistical information on the level of participation in the program of each health profession. The committee may include in the report recommendations for changes in the health professional recovery program and for participation by the boards and the physician's assistants task force, professional associations, substance abuse treatment and prevention programs, and other appropriate agencies.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16168 Contracts with private entities to assist with health professional recovery program; report.

Sec. 16168.

(1) The department shall enter into a contract with a private entity to act as a consultant to assist the committee with the administration of the health professional recovery program including, but not limited to, the duties described in section 16167(b) and (c). The department shall require the private entity to demonstrate that it has expertise and knowledge regarding the treatment of impaired health professionals.

(2) In the contract between the department and the private entity entered into under subsection (1), the department shall require the private entity to report immediately to the department any circumstances known to the private entity that indicate that an impaired health professional may be a threat to the public health, safety, or welfare.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16169 Impairment of health professional; transmitting information; determination.

Sec. 16169.

(1) If an individual employed by or under contract to the department has reasonable cause to believe that a health professional may be impaired, the individual shall transmit the information to the committee either orally or in writing. Upon receipt of the information, the committee shall request the program consultant described in section 16168 to determine whether or not the health professional may be impaired.

(2) If, based on the information received by the department under section 16168(2), the department determines that the health professional involved may be a threat to the public health, safety, or welfare and has violated this article, article 7, or article 8 or the rules promulgated under this article, article 7, or article 8, the department may proceed under sections 16211 and 16231.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013
Popular Name: Act 368

333.16170 Acceptance into health professional recovery program; requirements; participation; false representation of completion; violation as felony.

Sec. 16170.

(1) If the program consultant described in section 16168 determines under section 16169(1) that a health professional may be impaired, the committee may accept the health professional into the health professional recovery program if both of the following requirements are met:

(a) The health professional acknowledges his or her impairment.

(b) The health professional voluntarily does all of the following:

(i) Withdraws from or limits the scope of his or her practice, as determined necessary by the committee. To comply with this subparagraph, a health professional may request the limitation of his or her license under section 16182.

(ii) Agrees to participate in a treatment plan that meets the criteria developed under section 16167.

(2) If a health professional does not satisfactorily participate in the treatment plan described in subsection (1)(b)(ii), as determined by the committee, the committee shall report that fact to the department.

(3) A health professional participating in or who has participated in a treatment plan under the health professional recovery program or an individual treating the health professional under the treatment plan shall not falsely represent, either individually or together, that the health professional has successfully completed the treatment plan. An individual who intentionally violates this subsection is guilty of a felony.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16170a Confidentiality; destruction of records; applicability of subsection (3).

Sec. 16170a.

(1) The identity of an individual submitting information to the committee or the department regarding the suspected impairment of a health professional is confidential.

(2) The identity of a health professional who participates in the health professional recovery program is confidential and is not subject to disclosure under discovery or subpoena or the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, unless the health professional fails to satisfactorily participate in and complete a treatment plan prescribed under the health professional recovery program or violates section 16170(3).

(3) If a health professional successfully participates in and completes a treatment plan prescribed under the health professional recovery program, as determined by the committee, the department shall destroy all records pertaining to the impairment of the health professional, including records pertaining to the health professional's participation in the treatment plan, upon the expiration of 5 years after the date of the committee's determination. This subsection does not apply to records pertaining to a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013
Popular Name: Act 368

333.16171 License for practice of health profession; exemptions.

Sec. 16171.

Under the circumstances and subject to the limitations stated in each case, the following individuals are not required to have a license issued under this article for practice of a health profession in this state:

(a) A student who is in a health profession training program, that has been approved by the appropriate board, while performing the duties assigned in the course of training.

(b) An individual who is practicing a health profession in the discharge of official duties while in the military service of the United States, the United States Public Health Service, the United States Department of Agriculture, or the United States Department of Veterans Affairs. The institution in which the individual practices shall report the name and address of the individual to the appropriate board within 30 days after the date of employment.

(c) An individual who by education, training, or experience substantially meets the requirements of this article for licensure while rendering medical care in a time of disaster or to an ill or injured individual at the scene of an emergency.

(d) If the director of the department of health and human services determines that control of an epidemic is necessary to protect the public health under section 2253, an individual who is authorized to practice a health profession in another state, who would otherwise meet the requirements of this article for licensure, while rendering medical care during an epidemic-related staffing shortage to meet health professional staffing needs. As used in this subdivision, "epidemic-related staffing shortage" means a shortage of individuals who are licensed under this article during the epidemic. Epidemic-staffing shortage does not include a staffing shortage caused by a labor dispute as that term is defined in section 2 of 1939 PA 176, MCL 423.2.

(e) An individual who provides nonmedical nursing or similar services in the care of the ill or suffering or an individual who in good faith ministers to the ill or suffering by spiritual means alone, through prayer, in the exercise of a religious freedom, and who does not hold himself or herself out to be a health professional.

(f) An individual who resides in another state or country and is authorized to practice a health profession in that state or country who, in an exceptional circumstance, is called in for consultation or treatment by a health professional in this state.

(g) An individual who resides in another state or country and is authorized to practice a health profession in that state or country, when attending meetings or conducting lectures, seminars, or demonstrations under the auspices of professional associations or training institutions in this state, if the individual does not maintain an office or designate a place to meet patients or receive calls in this state.

(h) An individual who is authorized in another country to practice a health profession and who is employed by the United States Public Health Service or the government of another country for the exclusive use of members of

its merchant marine and members of its consular and diplomatic corps, while caring for those members in the performance of his or her official duties.

(i) An individual who resides adjacent to the land border between this state and an adjoining state and is authorized under the laws of that state to practice a health profession and whose practice may extend into this state, but who does not maintain an office or designate a place to meet patients or receive calls in this state.

(j) An individual who is authorized to practice a health profession in another state and who is appointed by the United States Olympic Committee to provide health services exclusively to team personnel and athletes registered to train and compete at a training site in this state approved by the United States Olympic Committee or at an event conducted under the sanction of the United States Olympic Committee. An exemption granted under this subdivision applies to the individual while he or she is performing the duties assigned in the course of the sanctioned training program or event and for the time period specified by the United States Olympic Committee.

(k) An individual who is currently authorized to practice a health profession in another state and is providing health services for an athletic team, if all of the following are met:

(i) The individual provides only those health services he or she would be permitted to provide if he or she were authorized under this article to engage in that health profession in this state.

(ii) The athletic team is from the same state that authorized the individual to practice the health profession.

(iii) The individual provides the health services under the terms of a written agreement with the athletic team.

(iv) The individual only provides the health services while the athletic team is traveling to or from or participating in a sporting event in this state and only to any of the following:

(A) A member of the athletic team.

(B) A member of the athletic team's coaching, communications, equipment, or sports medicine staff.

(C) A member of a band or cheerleading squad that is accompanying the athletic team.

(D) The athletic team's mascot.

(v) The individual does not provide health services at a health facility or agency, as that term is defined in section 20106, located in this state.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1985, Act 82, Imd. Eff. July 5, 1985 ;-- Am. 2016, Act 60, Eff. June 27, 2016 ;-- Am. 2021, Act 167, Imd. Eff. Dec. 27, 2021
Popular Name: Act 368

333.16174 License or registration; requirements; fingerprints; criminal history check; permitted acts by board or task force; sanctions; disclosure.

Sec. 16174.

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

(a) Be 18 or more years of age.

(b) Be of good moral character.

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

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

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

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

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

(b) Establish that if sanctions have been imposed against the applicant by a similar licensure, registration, or specialty licensure or specialty certification board of this or any other state, of the United States military, of the federal government, or of another country based upon grounds that are substantially similar to those set forth in this article, article 7, or article 8 or the rules promulgated under this article, article 7, or article 8, as determined by the board or task force to which the applicant applies, the sanctions are not in force at the time of application. This subdivision does not apply to an application for licensure that the board may grant under section 17011(4) or 17511(2).

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

(3) Beginning October 1, 2008, an applicant for initial licensure or registration shall submit his or her fingerprints to the department of state police to have a criminal history check conducted and request that the department of state police forward his or her fingerprints to the federal bureau of investigation for a national criminal history check. The department of state police shall conduct a criminal history check and request the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the applicant. The department of state police shall provide the department with a written report of the criminal history check if the criminal history check contains any criminal history record information. The department of state police shall forward the results of the federal bureau of investigation determination to the department within 30 days after the request is made. The department shall notify the board and the applicant in writing of the type of crime disclosed on the federal bureau of investigation determination without disclosing the details of the crime. The department of state police may charge a reasonable fee to cover the cost of conducting the criminal history check. The criminal history record information obtained under this subsection shall be used only for the purpose of evaluating an applicant's qualifications for licensure or registration for which he or she has applied. A member of the board shall not disclose the report or its contents to any person who is not directly involved in evaluating the applicant's qualifications for licensure or registration. Information obtained under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this section or for law enforcement purposes.

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

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

(b) Require the applicant to secure from a national association or federation of state professional licensing boards certification of compliance with the requirements described in subsection (2). If an application is for licensure that the board may grant under section 17011(4) or 17511(2), the applicant is not required to secure the certification of compliance with respect to the requirements described in subsection (2)(b).

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

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

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1988, Act 462, Eff. Sept. 1, 1989 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 1998, Act 227, Imd. Eff. July 3, 1998 ;-- Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002 ;-- Am. 2006, Act 26, Imd. Eff. Feb. 17, 2006 ;-- Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006 ;-- Am. 2012, Act 49, Imd. Eff. Mar. 13, 2012 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013
Popular Name: Act 368

333.16174a Preliminary determination; procedure; effect.

Sec. 16174a.

(1) The department shall establish a procedure that allows an individual to obtain a preliminary determination from the department concerning whether any court judgments against him or her would likely result in a denial of a license or registration for failing to meet the good moral character requirement for that license or registration.

(2) All of the following apply for purposes of subsection (1):

(a) To obtain a preliminary determination under this section, an individual must file a request that meets all of the following:

(i) Is submitted on a form provided by the department.

(ii) Identifies the license or registration for which he or she may apply.

(iii) Includes a detailed description of any criminal proceedings that resulted in a judgment against him or her.

(iv) Includes the nonrefundable fee required by the department.

(b) The department shall only consider the information provided by an individual under subdivision (a)(ii) and (iii) in making a preliminary determination.

(c) A preliminary determination under this section that is adverse to an individual does not prevent the individual from subsequently applying for a license or registration.

(d) The department or a board is not bound by a preliminary determination under this section if the individual applies for a license or registration under this act.

(e) The issuance of a preliminary determination under this section does not limit the authority of the department to review applications for a license or registration, or to issue or deny a license or registration.

(f) The department shall notify an individual of a preliminary determination by delivering a preliminary determination letter to the individual, in a form determined by the department.

(3) An individual shall not request more than 1 preliminary determination under this section in any 120-day period.

History: Add. 2018, Act 453, Eff. Mar. 21, 2019
Popular Name: Act 368

333.16175 License or registration; minimum standards of educational prerequisites.

Sec. 16175.

In developing minimum standards of educational prerequisites for licensure or registration, a board and its task forces shall consider equivalency and proficiency testing and other mechanisms, and where appropriate grant credit for past training, education, or experience in health and related fields. Standards may include those for formal education, practice proficiency, and other training, education, or experience which may provide equivalence to completion of formal educational requirements.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979
Popular Name: Act 368

333.16177 License or registration; form of application; inclusion of social security number; examination; passing scores; additional information; exception to social security requirement.

Sec. 16177.

(1) An individual applying for licensure or registration under this article shall do so on a form provided by the department. The department shall require each applicant to include on the application form his or her social security number. The department shall not display an applicant's social security number on his or her license or registration. If the facts set forth in the application meet the requirements of the board or task force and this article for licensure or registration, the board or task force shall grant a license or registration to the applicant. A board or task force may require the applicant to take an examination to determine if the applicant meets the qualifications for licensure or registration. The examination shall include subjects determined by the board or task force to be essential to the safe and competent practice of the health profession, the appropriate use of a title, or both. Passing scores or the procedure used to determine passing scores shall be established before an examination is administered.

(2) In addition to the information required under subsection (1), an applicant for licensure or registration or a licensee or registrant applying for renewal shall include on a form provided by the department all of the following information, if applicable:

(a) A felony conviction.

(b) A misdemeanor conviction punishable by imprisonment for a maximum term of 2 years or a misdemeanor conviction involving the illegal delivery, possession, or use of alcohol or a controlled substance.

(c) Sanctions imposed against the applicant by a similar licensure, registration, certification, or disciplinary board of another state or country.

(3) In addition to the information required under subsections (1) and (2), a physician, osteopathic physician, dentist, or podiatrist applying for licensure or renewal under this article shall report to the department on a form provided by the department the name of each hospital with which he or she is employed or under contract, and each hospital in which he or she is allowed to practice.

(4) In addition to the information required under subsections (1), (2), and (3), an applicant for licensure and, beginning the license renewal cycle after the effective date of the amendatory act that added section 16213, a licensee applying for renewal shall provide the department, on the application or the license renewal form, with an affidavit stating that he or she has a written policy for protecting, maintaining, and providing access to his or her medical records in accordance with section 16213 and for complying with section 16213 in the event that he or she sells or closes his or her practice, retires from practice, or otherwise ceases to practice under this article. The applicant or licensee shall make the written policy available to the department upon request.

(5) A requirement under this section to include a social security number on an application does not apply to an applicant who demonstrates he or she is exempt under law from obtaining a social security number or to an applicant who for religious convictions is exempt under law from disclosure of his or her social security number under these circumstances. The department shall inform the applicant of this possible exemption.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 1998, Act 332, Imd. Eff. Aug. 10, 1998 ;-- Am. 2006, Act 481, Imd. Eff. Dec. 22, 2006
Popular Name: Act 368

333.16178 Examinations, investigations, or evaluations to determine qualifications of applicants; passing national or regional examination; reexamination; notice of examination or evaluation.

Sec. 16178.

(1) Unless otherwise necessary for a board to fulfill national or regional testing requirements, the department shall conduct examinations or other evaluations necessary to determine qualifications of applicants for initial licensure or registration at least annually and may conduct other investigations or evaluations necessary to determine the qualifications of applicants. A board may accept passing a national or regional examination developed for use in the United States for the purpose of meeting a state board examination or a part thereof.

(2) An individual who fails to pass a required examination may be reexamined to the extent and in a manner determined by the board.

(3) The department shall give public notice of the time and place of a required regular initial licensure or registration examination or evaluation in a manner it considers best not less than 90 days before the date of the examination or evaluation.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.16179 Unlawful conduct in connection with examination or application.

Sec. 16179.

An individual shall not make a false representation or impersonation or act as a proxy for another individual or allow or aid an individual to impersonate him or her in connection with an examination or application for licensure or registration or a request to be examined, licensed, or registered.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.16181 Temporary license; nonrenewable; eligibility; duration; automatically voiding; expiration; supervision; issuance; applicant dependent of a member of armed forces or veteran.

Sec. 16181.

(1) A board may grant a nonrenewable, temporary license to an applicant who has completed all requirements for licensure except for examination or other required evaluation procedure. A board shall not grant a temporary license to an individual who has previously failed the examination or other required evaluation procedure or whose license has been suspended or revoked. A temporary license issued under this subsection is valid for 18 months, but a board shall automatically void the temporary license if the applicant fails the examination or other required evaluation procedure.

(2) The Michigan board of nursing may grant a nonrenewable, temporary license to an applicant for a license under part 172 to engage in the practice of nursing as a registered professional nurse if the applicant is licensed as a registered professional nurse by an equivalent licensing board or authority in another state or is licensed as a registered professional nurse by an equivalent licensing board or authority in Canada. A temporary license issued under this subsection expires on the earliest of the following:

(a) One year after the date of issuance.

(b) The date the applicant is notified that he or she failed the CGFNS International, Inc., qualifying examination, as approved by the department.

(c) The date the applicant is notified that he or she failed the National Council Licensure Examination, as approved by the department.

(d) The date the applicant is issued a license under part 172 to engage in the practice of nursing as a registered professional nurse.

(e) The date the applicant is notified that he or she has failed to meet the requirements of this article and rules promulgated under this article for licensure.

(f) The date the applicant is notified that he or she has failed to complete the application process for full licensure.

(3) The holder of a temporary license issued under subsection (1) or (5) shall practice only under the supervision of a licensee who holds a license, other than a health profession subfield license, in the same health profession. The holder of a temporary license issued under subsection (1) or (5) must not be supervised by a licensee who holds a limited license or temporary license.

(4) The department shall issue a temporary license within 48 hours on receipt of proof that the applicant's license issued by another state or a province in Canada is currently active and in good standing.

(5) Beginning June 11, 2014, the department shall grant a temporary license or registration to an applicant who meets all of the following:

(a) He or she provides proof acceptable to the department that he or she is a dependent of a member of the armed forces, a dependent of a member of the uniformed services, or a dependent of a veteran. As used in this subdivision, "dependent" and "veteran" mean those terms as defined in section 16303.

(b) He or she provides proof acceptable to the department that he or she holds a current license in good standing, or a current registration in good standing, in that health profession, issued by an equivalent licensing department, board, or authority in another state or country, as determined by the department, in consultation with the applicable board.

(c) He or she complies with section 16174(3) so that a criminal history check is conducted in the manner prescribed in that section.

(6) A temporary license issued under subsection (5) is valid for 6 months and may be renewed for 1 additional 6-month term if the board determines the temporary licensee continues to meet the requirements of subsection (5) and needs additional time to fulfill the requirements for initial licensure under this article.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1989, Act 293, Imd. Eff. Jan. 3, 1990 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2000, Act 256, Imd. Eff. June 29, 2000 ;-- Am. 2004, Act 200, Imd. Eff. July 12, 2004 ;-- Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006 ;-- Am. 2006, Act 643, Imd. Eff. Jan. 5, 2007 ;-- Am. 2014, Act 41, Imd. Eff. Mar. 20, 2014 ;-- Am. 2014, Act 148, Imd. Eff. June 11, 2014 ;-- Am. 2021, Act 25, Eff. Sept. 7, 2021

Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€

Popular Name: Act 368

333.16182 Limited licenses; issuance.

Sec. 16182.

(1) A board may grant a limited license to an individual if the board determines that the limitation is consistent with the ability of the individual to practice the health profession in a safe and competent manner, is necessary to protect the health and safety of patients or clients, or is appropriate to promote the efficient and effective delivery of health care services.

(2) In addition to the licenses issued under subsection (1), a board may grant the following types of limited licenses upon application by an individual or upon its own determination:

(a) Educational, to an individual engaged in postgraduate education.

(b) Nonclinical, to an individual who functions only in a nonclinical academic, research, or administrative setting and who does not hold himself or herself out to the public as being actively engaged in the practice of the health profession, or otherwise directly solicit patients or clients.

(c) Clinical academic, to an individual who practices the health profession only as part of an academic institution and only in connection with his or her employment or other contractual relationship with that academic institution. For an individual applying for a limited license under this subdivision to engage in the practice of medicine under part 170, "academic institution" means that term as defined in section 17001.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1990, Act 248, Imd. Eff. Oct. 12, 1990 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.16183 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.

Compiler's Notes: The repealed section pertained to grounds for reclassification of license.
Popular Name: Act 368

333.16184 Special volunteer license.

Sec. 16184.

(1) An individual who is retired from engaging in the active practice of a health profession and who wishes to donate his or her expertise for the health care and treatment of indigent and needy individuals in this state or for the health care and treatment of individuals in medically underserved areas of this state may obtain a special volunteer license to engage in the practice of the health profession from which he or she is retired by submitting an application to the board under this section. An applicant shall submit an application for a special volunteer license on a form provided by the department and shall include each of the following:

(a) Documentation that the individual has been previously licensed to engage in the practice of a health profession in this state and that his or her license was in good standing at the time his or her license expired.

(b) Acknowledgment and documentation that the applicant will not receive any payment or compensation, either direct or indirect, or have the expectation of any payment or compensation, for any health care and treatment services provided under the special volunteer license.

(c) If the applicant has been out of practice for 3 or more years, documentation that, during the 3 years immediately preceding the application, he or she has attended at least 2/3 of the continuing education courses or programs required for that health profession under this article or any rules promulgated under this article for the renewal of a license for that health profession.

(2) If the board determines that the application of the individual satisfies the requirements of subsection (1) and that the individual meets the requirements for a license under this article and rules promulgated under this article, the board shall grant a special volunteer license to the applicant. A licensee seeking renewal under this section shall provide the board with an updated acknowledgment and documentation as described in subsection (1)(b). Except as otherwise provided in this subsection, the board shall not charge a fee for the issuance or renewal of a special

volunteer license under this section.

(3) Except as otherwise provided in this subsection, an individual who is granted a special volunteer license under this section and who accepts the privilege of engaging in the practice of a health profession in this state is subject to all of the provisions of this article applicable to that health profession, including those provisions concerning continuing education and disciplinary action.

(4) For purposes of this section, an individual is considered retired from engaging in the practice of a health profession if the individual's license has expired with the individual's intention of ceasing to engage, for remuneration, in the practice of the health profession.

(5) An individual who is granted a special volunteer license under this section shall only engage in activities within the scope of practice of the health profession for which he or she was licensed before his or her retirement.

(6) As used in this section and section 16185, "health profession" means a health profession for which an individual must be licensed, registered, or otherwise authorized under article 15 to practice in this state.

History: Add. 2006, Act 24, Imd. Eff. Feb. 16, 2006 ;-- Am. 2006, Act 591, Imd. Eff. Jan. 3, 2007 ;-- Am. 2012, Act 4, Imd. Eff. Feb. 7, 2012 ;-- Am. 2013, Act 171, Imd. Eff. Nov. 18, 2013
Popular Name: Act 368

333.16185 Care by individual under special volunteer license; civil liability; gross negligence; definitions.

Sec. 16185.

(1) Subject to subsection (2), an individual who provides care under a special volunteer license to engage in the practice of a health profession granted under section 16184 is not liable in a civil action for personal injury or death proximately caused by the professional negligence or malpractice of the individual in providing the care if both of the following apply:

(a) The care is provided at a health facility or agency that provides at least 75% of its care annually to medically indigent individuals.

(b) The individual does not receive and does not intend to receive compensation for providing the care.

(2) Subsection (1) does not apply if the negligent conduct or malpractice of the individual is gross negligence.

(3) As used in this section:

(a) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether an injury results.

(b) "Medically indigent individual" means that term as defined in section 106 of the social welfare act, 1939 PA 280, MCL 400.106.

History: Add. 2006, Act 25, Imd. Eff. Feb. 16, 2006 ;-- Am. 2011, Act 55, Imd. Eff. June 8, 2011 ;-- Am. 2012, Act 4, Imd. Eff. Feb. 7, 2012 ;-- Am. 2013, Act 171, Imd. Eff. Nov. 18, 2013
Popular Name: Act 368

333.16186 Reciprocity; requirements; person licensed as respiratory therapist in Canada.

Sec. 16186.

(1) An individual who is licensed to practice a health profession in another state or in a province of Canada, who is registered in another state, or who holds a health profession specialty field license or specialty certification from another state and who applies for licensure, registration, specialty certification, or a health profession specialty field license in this state may be granted an appropriate license or registration or specialty certification or health profession specialty field license upon satisfying the board or task force to which the applicant applies as to all of the following:

(a) The applicant substantially meets the requirements of this article and rules promulgated under this article for licensure, registration, specialty certification, or a health profession specialty field license.

(b) Subject to subsection (3), the applicant is licensed, registered, specialty certified, or specialty licensed in another state or is licensed in a province in Canada that maintains standards substantially equivalent to those of this state.

(c) Subject to subsection (3), if the applicant is licensed to practice a health profession in a province in Canada, the applicant completed the educational requirements in Canada or in the United States for licensure in Canada or in the United States.

(d) If the applicant is licensed to practice a health profession in a province in Canada, that the applicant will perform the professional services for which he or she bills in this state, and that any resulting request for third-party reimbursement will originate from the applicant's place of employment in this state.

(2) Before granting a license, registration, specialty certification, or a health profession specialty field license to the applicant, the board or task force to which the applicant applies may require the applicant to appear personally before it for an interview to evaluate the applicant's relevant qualifications.

(3) An applicant who is licensed in a province in Canada who meets the requirements of subsection (1)(c) and takes and passes a national examination in this country that is approved by the appropriate licensing board of this state, or who takes and passes a Canadian national examination approved by the appropriate licensing board of this state, is considered to have met the requirements of subsection (1)(b). This subsection does not apply if the department, in consultation with the appropriate licensing board, promulgates a rule disallowing the use of this subsection for an applicant licensed in a province in Canada who does not substantially meet the training or educational requirements expected of an applicant for the same health profession who received his or her education in the United States or who is not licensed in a province in Canada that maintains standards substantially equivalent to those of this state.

(4) If the department receives an application for licensure under part 187 from an individual who is licensed as a respiratory therapist in Canada, the department shall consult the international reciprocity agreement executed by the National Board for Respiratory Care and the Canadian Society of Respiratory Therapists in effect on July 1, 2004.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1988, Act 81, Eff. May 1, 1988 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2002, Act 441, Imd. Eff. June 13, 2002 ;-- Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002 ;-- Am. 2003, Act 234, Imd. Eff. Dec. 29, 2003 ;-- Am. 2004, Act 3, Eff. July 1, 2004 ;-- Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006 ;-- Am. 2020, Act 329, Eff. Mar. 24, 2021

Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€

Popular Name: Act 368

333.16186a License or registration without examination; member of armed forces, veteran, or dependent of member or veteran; requirements.

Sec. 16186a.

(1) Notwithstanding any other provision of this article to the contrary, an applicant must be granted an initial license or initial registration, without examination, if the applicant meets all of the following:

(a) Demonstrates to the satisfaction of the department that he or she is 1 of the following:

(i) A member of the armed forces or the uniformed services.

(ii) A veteran.

(iii) A dependent of a member of the armed forces, a member of the uniformed services, or a veteran.

(b) Demonstrates to the satisfaction of the department that he or she holds a current license or registration in good standing in another state or country for the health profession for which the applicant is seeking licensure or registration in this state and the department determines that the requirements for licensure or registration in the other state or country are substantially equivalent to or exceed the requirements of this article and rules promulgated by the department, in consultation with the applicable board, under this article for licensure or registration.

(c) Demonstrates to the satisfaction of the department that he or she is competent in the health profession for which he or she is seeking licensure or registration, as demonstrated by the applicant's training or experience or by another method prescribed by the department, in consultation with the applicable board.

(d) He or she complies with section 16174(3) so that a criminal history check is conducted in the manner prescribed in that section.

(2) As used in this section, "dependent" and "veteran" mean those terms as defined in section 16303.

History: Add. 2021, Act 25, Eff. Sept. 7, 2021

Popular Name: Act 368

333.16189 Repealed. 2022, Act 38, Eff. Mar. 28, 2025.

Compiler's Notes: The repealed section pertained to the interstate medical licensure compact.

333.16189a Disclosure of information under the interstate medical licensure compact; conditions; subpoena requirements; conditions for certain violation investigation; definitions.

Sec. 16189a.

(1) Notwithstanding section 16189 and any rule promulgated by the interstate commission under the compact, a member board of this state may only disclose information about an individual under the compact if all of the following are met:

(a) Any of the following apply to the individual:

(i) He or she holds a current expedited license that was granted by a member board of this state under the compact.

(ii) He or she holds a current expedited license that was granted by another member state or is applying to receive an expedited license in another member state, and this state is currently designated as the individual's state of principal license.

(iii) He or she is requesting to designate this state as his or her state of principal license under the compact.

(iv) He or she is applying to receive an expedited license to practice in this state under the compact.

(b) The information is provided only to a member board of another state with responsibility for authorizing the practice of medicine in the member state or to the interstate commission.

(c) The information is not considered confidential under a law of this state.

(2) A subpoena issued under the compact is only enforceable in this state or against a citizen of this state if all of the following apply:

(a) The subpoena is issued by a member board with responsibility for authorizing the practice of medicine in the member state.

(b) The individual being subpoenaed meets 1 of the following:

(i) He or she is a physician who holds a current expedited license granted by a member board of this state under the compact.

(ii) He or she is a physician who holds a current expedited license granted by another member state, and this state is currently designated as the physician's state of principal license.

(3) In applying section 9(e) of the compact, a member board of this state may only undertake an investigation of a violation of another state's statute authorizing the practice of medicine if 1 of the following applies to the physician being investigated:

(a) He or she holds a current expedited license that was granted by a member board of this state and holds a current expedited license that was granted by the other state under the compact.

(b) He or she holds a current expedited license that was granted by a member board of this state under the compact and the other state is the physician's currently designated state of principal license.

(c) He or she holds a current expedited license that was granted by the other state under the compact and this state is the physician's currently designated state of principal license.

(4) As used in this section and section 16189b:

(a) "Compact" means the interstate medical licensure compact enacted in section 16189(1).

(b) "Expedited license" means that term as defined in section 2(d) of the compact.

(c) "Interstate commission" means that term as defined in section 2(e) of the compact.

(d) "Member board" means that term as defined in section 2(h) of the compact.

(e) "Practice of medicine" means that term as defined in section 2(j) of the compact.

(f) "State of principal license" means that term as defined in section 2(o) of the compact.

History: Add. 2018, Act 524, Eff. Mar. 28, 2019
Popular Name: Act 368

333.16189b Application for expedited license under the interstate medical licensure compact; fingerprints required; criminal history check; automated fingerprint identification system database; definitions.

Sec. 16189b.

(1) An individual who is applying for an expedited license under the compact with a member board of this state shall submit 1 set of his or her fingerprints to the department of state police in order for the department of state police to conduct a criminal history check on the individual and to forward the individual's fingerprints to the Federal Bureau of Investigation for a national criminal history check. The individual shall submit with the application his or her written consent to the criminal history check described in this section and the submission of his or her fingerprints to, and the inclusion of his or her fingerprints in, the state and federal database systems described in subsection (4).

(2) The fingerprints required under subsection (1) may be taken by a law enforcement agency or any other person determined by the department of state police to be qualified to take fingerprints. The individual described in subsection (1) shall submit a fingerprint processing fee to the department in an amount required under section 3 of 1935 PA 120, MCL 28.273, and any costs imposed by the Federal Bureau of Investigation.

(3) The department of state police shall conduct a criminal history check on the individual described in subsection (1) and shall request the Federal Bureau of Investigation to make a determination of the existence of any national criminal history pertaining to the individual. The department of state police shall provide a member board of this state with a written report containing the criminal history record information of the individual who was the subject of the criminal history check conducted under this section.

(4) All of the following apply concerning fingerprints submitted to the department of state police under this section:

(a) The department of state police shall store and retain all fingerprints submitted under this section in an automated fingerprint identification system database that searches against latent fingerprints, and provides for an automatic notification if and when a subsequent fingerprint is submitted into the system that matches a set of fingerprints previously submitted under this section or if and when the criminal history of an individual whose fingerprints are retained in the system is updated. Upon receiving a notification, the department of state police shall immediately notify a member board of this state. Information in the database maintained under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(b) The department of state police shall forward all fingerprints submitted to it under this section to the Federal Bureau of Investigation for submission of those fingerprints into the FBI automatic notification system. This subdivision does not apply until the department of state police is a participant in the FBI automatic notification system. As used in this subdivision:

(i) "Automatic notification system" means a system that stores and retains fingerprints, and that provides for an automatic notification to a participant if and when a fingerprint is submitted into the system that matches an individual whose fingerprints are retained in the system or if and when the criminal history of an individual whose fingerprints are retained in the system is updated.

(ii) "FBI automatic notification system" means the automatic notification system that is maintained by the Federal Bureau of Investigation.

History: Add. 2018, Act 524, Eff. Mar. 28, 2019
Popular Name: Act 368

333.16190 Psychology interjurisdictional compact.

Sec. 16190.

(1) The psychology interjurisdictional compact is enacted into law and entered into by this state as a party with all jurisdictions that legally join in the compact, in the form substantially as follows:

PSYCHOLOGY INTERJURISDICTIONAL COMPACT (PSYPACT)

ARTICLE I

PURPOSE

Whereas, states license psychologists, in order to protect the public through verification of education, training and experience and ensure accountability for professional practice; and

Whereas, this Compact is intended to regulate the day to day practice of telepsychology (i.e. the provision of psychological services using telecommunication technologies) by psychologists across state boundaries in the performance of their psychological practice as assigned by an appropriate authority; and

Whereas, this Compact is intended to regulate the temporary in-person, face-to-face practice of psychology by psychologists across state boundaries for 30 days within a calendar year in the performance of their psychological practice as assigned by an appropriate authority;

Whereas, this Compact is intended to authorize State Psychology Regulatory Authorities to afford legal recognition, in a manner consistent with the terms of the Compact, to psychologists licensed in another state;

Whereas, this Compact recognizes that states have a vested interest in protecting the public's health and safety through their licensing and regulation of psychologists and that such state regulation will best protect public health and safety;

Whereas, this Compact does not apply when a psychologist is licensed in both the Home and Receiving States; and

Whereas, this Compact does not apply to permanent in-person, face-to-face practice, it does allow for authorization of temporary psychological practice.

Consistent with these principles, this Compact is designed to achieve the following purposes and objectives:

1. Increase public access to professional psychological services by allowing for telepsychological practice across state lines as well as temporary in-person, face-to-face services into a state which the psychologist is not licensed to practice psychology;

2. Enhance the states' ability to protect the public's health and safety, especially client/patient safety;

3. Encourage the cooperation of Compact States in the areas of psychology licensure and regulation;

4. Facilitate the exchange of information between Compact States regarding psychologist licensure, adverse actions and disciplinary history;

5. Promote compliance with the laws governing psychological practice in each Compact State; and

6. Invest all Compact States with the authority to hold licensed psychologists accountable through the mutual recognition of Compact State licenses.

ARTICLE II

DEFINITIONS

A. "Adverse Action" means any action taken by a State Psychology Regulatory Authority which finds a violation of a statute or regulation that is identified by the State Psychology Regulatory Authority as discipline and is a matter of public record.

B. "Association of State and Provincial Psychology Boards (ASPPB)" means the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities responsible for the licensure and registration of psychologists throughout the United States and Canada.

C. "Authority to Practice Interjurisdictional Telepsychology" means a licensed psychologist's authority to practice telepsychology, within the limits authorized under this Compact, in another Compact State.

D. "Bylaws" means those Bylaws established by the Psychology Interjurisdictional Compact Commission pursuant to Article X for its governance, or for directing and controlling its actions and conduct.

E. "Client/Patient" means the recipient of psychological services, whether psychological services are delivered in the context of healthcare, corporate, supervision, and/or consulting services.

F. "Commissioner" means the voting representative appointed by each State Psychology Regulatory Authority pursuant to Article X.

G. "Compact State" means a state, the District of Columbia, or United States territory that has enacted this Compact legislation and which has not withdrawn pursuant to Article XIII, Section C or been terminated pursuant to Article XII, Section B.

H. "Coordinated Licensure Information System" also referred to as "Coordinated Database" means an integrated process for collecting, storing, and sharing information on psychologists' licensure and enforcement activities related to psychology licensure laws, which is administered by the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities.

I. "Confidentiality" means the principle that data or information is not made available or disclosed to unauthorized persons and/or processes.

J. "Day" means any part of a day in which psychological work is performed.

K. "Distant State" means the Compact State where a psychologist is physically present (not through the use of telecommunications technologies), to provide temporary in-person, face-to-face psychological services.

L. "E.Passport" means a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that promotes the standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across state lines.

M. "Executive Board" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

N. "Home State" means a Compact State where a psychologist is licensed to practice psychology. If the psychologist is licensed in more than one Compact State and is practicing under the Authorization to Practice Interjurisdictional Telepsychology, the Home State is the Compact State where the psychologist is physically present when the telepsychological services are delivered. If the psychologist is licensed in more than one Compact State and is practicing under the Temporary Authorization to Practice, the Home State is any Compact State where the psychologist is licensed.

O. "Identity History Summary" means a summary of information retained by the Federal Bureau of Investigation, or other designee with similar authority, in connection with arrests and, in some instances, federal employment, naturalization, or military service.

P. "In-Person, Face-to-Face" means interactions in which the psychologist and the client/patient are in the same physical space and which does not include interactions that may occur through the use of telecommunication technologies.

Q. "Interjurisdictional Practice Certificate (IPC)" means a certificate issued by the Association of State and Provincial Psychology Boards (ASPPB) that grants temporary authority to practice based on notification to the State Psychology Regulatory Authority of intention to practice temporarily, and verification of one's qualifications for such practice.

R. "License" means authorization by a State Psychology Regulatory Authority to engage in the independent practice of psychology, which would be unlawful without the authorization.

S. "Non-Compact State" means any State which is not at the time a Compact State.

T. "Psychologist" means an individual licensed for the independent practice of psychology.

U. "Psychology Interjurisdictional Compact Commission" also referred to as "Commission" means the national administration of which all Compact States are members.

V. "Receiving State" means a Compact State where the client/patient is physically located when the telepsychological services are delivered.

W. "Rule" means a written statement by the Psychology Interjurisdictional Compact Commission promulgated pursuant to Article XI of the Compact that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission and has the force and effect of statutory law in a Compact State, and includes the amendment, repeal or suspension of an existing rule.

X. "Significant Investigatory Information" means:

1. Investigative information that a State Psychology Regulatory Authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate more than a violation of state statute or ethics code that would be considered more substantial than minor infraction; or

2. Investigative information that indicates that the psychologist represents an immediate threat to public health and safety regardless of whether the psychologist has been notified and/or had an opportunity to respond.

Y. "State" means a state, commonwealth, territory, or possession of the United States, the District of Columbia.

Z. "State Psychology Regulatory Authority" means the Board, office or other agency with the legislative mandate to license and regulate the practice of psychology.

AA. "Telepsychology" means the provision of psychological services using telecommunication technologies.

BB. "Temporary Authorization to Practice" means a licensed psychologist's authority to conduct temporary in-person, face-to-face practice, within the limits authorized under this Compact, in another Compact State.

CC. "Temporary In-Person, Face-to-Face Practice" means where a psychologist is physically present (not through the use of telecommunications technologies), in the Distant State to provide for the practice of psychology for 30 days within a calendar year and based on notification to the Distant State.

ARTICLE III

HOME STATE LICENSURE

A. The Home State shall be a Compact State where a psychologist is licensed to practice psychology.

B. A psychologist may hold one or more Compact State licenses at a time. If the psychologist is licensed in more than one Compact State, the Home State is the Compact State where the psychologist is physically present when the services are delivered as authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.

C. Any Compact State may require a psychologist not previously licensed in a Compact State to obtain and retain a license to be authorized to practice in the Compact State under circumstances not authorized by the Authority to Practice Interjurisdictional Telepsychology under the terms of this Compact.

D. Any Compact State may require a psychologist to obtain and retain a license to be authorized to practice in a Compact State under circumstances not authorized by Temporary Authorization to Practice under the terms of this Compact.

E. A Home State's license authorizes a psychologist to practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only if the Compact State:

1. Currently requires the psychologist to hold an active E.Passport;

2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;

3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, no later than ten years after activation of the Compact; and

5. Complies with the Bylaws and Rules of the Commission.

F. A Home State's license grants Temporary Authorization to Practice to a psychologist in a Distant State only if the Compact State:

1. Currently requires the psychologist to hold an active IPC;

2. Has a mechanism in place for receiving and investigating complaints about licensed individuals;

3. Notifies the Commission, in compliance with the terms herein, of any adverse action or significant investigatory information regarding a licensed individual;

4. Requires an Identity History Summary of all applicants at initial licensure, including the use of the results of fingerprints or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, or other designee with similar authority, no later than ten years after activation of the Compact; and

5. Complies with the Bylaws and Rules of the Commission.

ARTICLE IV

COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY

A. Compact States shall recognize the right of a psychologist, licensed in a Compact State in conformance with Article III, to practice telepsychology in other Compact States (Receiving States) in which the psychologist is not licensed, under the Authority to Practice Interjurisdictional Telepsychology as provided in the Compact.

B. To exercise the Authority to Practice Interjurisdictional Telepsychology under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must:

1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

a. Regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees, OR authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

b. A foreign college or university deemed to be equivalent to 1 (a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

2. Hold a graduate degree in psychology that meets the following criteria:

a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution;

c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

d. The program must consist of an integrated, organized sequence of study;

e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

f. The designated director of the program must be a psychologist and a member of the core faculty;

g. The program must have an identifiable body of students who are matriculated in that program for a degree;

h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

i. The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degree and a minimum of one academic year of full-time graduate study for master's degree;

j. The program includes an acceptable residency as defined by the Rules of the Commission.

3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;

4. Have no history of adverse action that violate the Rules of the Commission;

5. Have no criminal record history reported on an Identity History Summary that violates the Rules of the Commission;

6. Possess a current, active E.Passport;

7. Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology; criminal background; and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

8. Meet other criteria as defined by the Rules of the Commission.

C. The Home State maintains authority over the license of any psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional Telepsychology.

D. A psychologist practicing into a Receiving State under the Authority to Practice Interjurisdictional

Telepsychology will be subject to the Receiving State's scope of practice. A Receiving State may, in accordance with that state's due process law, limit or revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology in the Receiving State and may take any other necessary actions under the Receiving State's applicable law to protect the health and safety of the Receiving State's citizens. If a Receiving State takes action, the state shall promptly notify the Home State and the Commission.

E. If a psychologist's license in any Home State, another Compact State, or any Authority to Practice Interjurisdictional Telepsychology in any Receiving State, is restricted, suspended or otherwise limited, the E.Passport shall be revoked and therefore the psychologist shall not be eligible to practice telepsychology in a Compact State under the Authority to Practice Interjurisdictional Telepsychology.

ARTICLE V

COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

A. Compact States shall also recognize the right of a psychologist, licensed in a Compact State in conformance with Article III, to practice temporarily in other Compact States (Distant States) in which the psychologist is not licensed, as provided in the Compact.

B. To exercise the Temporary Authorization to Practice under the terms and provisions of this Compact, a psychologist licensed to practice in a Compact State must:

1. Hold a graduate degree in psychology from an institute of higher education that was, at the time the degree was awarded:

a. Regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees, OR authorized by Provincial Statute or Royal Charter to grant doctoral degrees; or

b. A foreign college or university deemed to be equivalent to 1 (a) above by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or by a recognized foreign credential evaluation service; and

2. Hold a graduate degree in psychology that meets the following criteria:

a. The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists;

b. The psychology program must stand as a recognizable, coherent, organizational entity within the institution;

c. There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines;

d. The program must consist of an integrated, organized sequence of study;

e. There must be an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

f. The designated director of the program must be a psychologist and a member of the core faculty;

g. The program must have an identifiable body of students who are matriculated in that program for a degree;

h. The program must include supervised practicum, internship, or field training appropriate to the practice of psychology;

i. The curriculum shall encompass a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degree;

j. The program includes an acceptable residency as defined by the Rules of the Commission.

3. Possess a current, full and unrestricted license to practice psychology in a Home State which is a Compact State;

4. No history of adverse action that violate the Rules of the Commission;

5. No criminal record history that violates the Rules of the Commission;

6. Possess a current, active IPC;

7. Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the Commission; and

8. Meet other criteria as defined by the Rules of the Commission.

C. A psychologist practicing into a Distant State under the Temporary Authorization to Practice shall practice within the scope of practice authorized by the Distant State.

D. A psychologist practicing into a Distant State under the Temporary Authorization to Practice will be subject to the Distant State's authority and law. A Distant State may, in accordance with that state's due process law, limit or revoke a psychologist's Temporary Authorization to Practice in the Distant State and may take any other necessary actions under the Distant State's applicable law to protect the health and safety of the Distant State's citizens. If a Distant State takes action, the state shall promptly notify the Home State and the Commission.

E. If a psychologist's license in any Home State, another Compact State, or any Temporary Authorization to Practice in any Distant State, is restricted, suspended or otherwise limited, the IPC shall be revoked and therefore the psychologist shall not be eligible to practice in a Compact State under the Temporary Authorization to Practice.

ARTICLE VI

CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

A. A psychologist may practice in a Receiving State under the Authority to Practice Interjurisdictional Telepsychology only in the performance of the scope of practice for psychology as assigned by an appropriate State

Psychology Regulatory Authority, as defined in the Rules of the Commission, and under the following circumstances:

1. The psychologist initiates a client/patient contact in a Home State via telecommunications technologies with a client/patient in a Receiving State;

2. Other conditions regarding telepsychology as determined by Rules promulgated by the Commission.

ARTICLE VII

ADVERSE ACTIONS

A. A Home State shall have the power to impose adverse action against a psychologist's license issued by the Home State. A Distant State shall have the power to take adverse action on a psychologist's Temporary Authorization to Practice within that Distant State.

B. A Receiving State may take adverse action on a psychologist's Authority to Practice Interjurisdictional Telepsychology within that Receiving State. A Home State may take adverse action against a psychologist based on an adverse action taken by a Distant State regarding temporary in-person, face-to-face practice.

C. If a Home State takes adverse action against a psychologist's license, that psychologist's Authority to Practice Interjurisdictional Telepsychology is terminated and the E.Passport is revoked. Furthermore, that psychologist's Temporary Authorization to Practice is terminated and the IPC is revoked.

1. All Home State disciplinary orders which impose adverse action shall be reported to the Commission in accordance with the Rules promulgated by the Commission. A Compact State shall report adverse actions in accordance with the Rules of the Commission.

2. In the event discipline is reported on a psychologist, the psychologist will not be eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the Rules of the Commission.

3. Other actions may be imposed as determined by the Rules promulgated by the Commission.

D. A Home State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a Receiving State as it would if such conduct had occurred by a licensee within the Home State. In such cases, the Home State's law shall control in determining any adverse action against a psychologist's license.

E. A Distant State's Psychology Regulatory Authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under Temporary Authorization Practice which occurred in that Distant State as it would if such conduct had occurred by a licensee within the Home State. In such cases, Distant State's law shall control in determining any adverse action against a psychologist's Temporary Authorization to Practice.

F. Nothing in this Compact shall override a Compact State's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation shall remain non-public if required by the Compact State's law. Compact States must require psychologists who enter any alternative programs to not provide telepsychology services under the Authority to Practice Interjurisdictional Telepsychology or provide temporary psychological services under the Temporary Authorization to Practice in any other Compact State during the term of the alternative program.

G. No other judicial or administrative remedies shall be available to a psychologist in the event a Compact State imposes an adverse action pursuant to subsection C, above.

ARTICLE VIII

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY REGULATORY AUTHORITY

A. In addition to any other powers granted under state law, a Compact State's Psychology Regulatory Authority shall have the authority under this Compact to:

1. Issue subpoenas, for both hearings and investigations, which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a Compact State's Psychology Regulatory Authority for the attendance and testimony of witnesses, and/or the production of evidence from another Compact State shall be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing State Psychology Regulatory Authority shall pay any witness fees, travel expenses, mileage and other fees required by the service statutes of the state where the witnesses and/or evidence are located; and

2. Issue cease and desist and/or injunctive relief orders to revoke a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice.

3. During the course of any investigation, a psychologist may not change his/her Home State licensure. A Home State Psychology Regulatory Authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The Home State Psychology Regulatory Authority shall promptly report the conclusions of such investigations to the Commission. Once an investigation has been completed, and pending the outcome of said investigation, the psychologist may change his/her Home State licensure. The Commission shall promptly notify the new Home State of any such decisions as provided in the Rules of the Commission. All information provided to the Commission or distributed by Compact States pursuant to the psychologist shall be confidential, filed under seal and used for investigatory or disciplinary matters. The

Commission may create additional rules for mandated or discretionary sharing of information by Compact States.

ARTICLE IX

COORDINATED LICENSURE INFORMATION SYSTEM

A. The Commission shall provide for the development and maintenance of a Coordinated Licensure Information System (Coordinated Database) and reporting system containing licensure and disciplinary action information on all psychologists individuals to whom this Compact is applicable in all Compact States as defined by the Rules of the Commission.

B. Notwithstanding any other provision of state law to the contrary, a Compact State shall submit a uniform data set to the Coordinated Database on all licensees as required by the Rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Significant investigatory information;

4. Adverse actions against a psychologist's license;

5. An indicator that a psychologist's Authority to Practice Interjurisdictional Telepsychology and/or Temporary Authorization to Practice is revoked;

6. Non-confidential information related to alternative program participation information;

7. Any denial of application for licensure, and the reasons for such denial; and

8. Other information which may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. The Coordinated Database administrator shall promptly notify all Compact States of any adverse action taken against, or significant investigative information on, any licensee in a Compact State.

D. Compact States reporting information to the Coordinated Database may designate information that may not be shared with the public without the express permission of the Compact State reporting the information.

E. Any information submitted to the Coordinated Database that is subsequently required to be expunged by the law of the Compact State reporting the information shall be removed from the Coordinated Database.

ARTICLE X

ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION

A. The Compact States hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

1. The Commission is a body politic and an instrumentality of the Compact States.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. The Commission shall consist of one voting representative appointed by each Compact State who shall serve as that state's Commissioner. The State Psychology Regulatory Authority shall appoint its delegate. This delegate shall be empowered to act on behalf of the Compact State. This delegate shall be limited to:

a. Executive Director, Executive Secretary or similar executive;

b. Current member of the State Psychology Regulatory Authority of a Compact State; OR

c. Designee empowered with the appropriate delegate authority to act on behalf of the Compact State.

2. Any Commissioner may be removed or suspended from office as provided by the law of the state from which the Commissioner is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the Compact State in which the vacancy exists.

3. Each Commissioner shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of Bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A Commissioner shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Commissioners' participation in meetings by telephone or other means of communication.

4. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the Bylaws.

5. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article XI.

6. The Commission may convene in a closed, non-public meeting if the Commission must discuss:

a. Non-compliance of a Compact State with its obligations under the Compact;

b. The employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation against the Commission;

d. Negotiation of contracts for the purchase or sale of goods, services or real estate;

e. Accusation against any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information which is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigatory records compiled for law enforcement purposes;

i. Disclosure of information related to any investigatory reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility for investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal and state statute.

7. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes which fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, of any person participating in the meeting, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release only by a majority vote of the Commission or order of a court of competent jurisdiction.

C. The Commission shall, by a majority vote of the Commissioners, prescribe Bylaws and/or Rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of the Compact, including but not limited to:

1. Establishing the fiscal year of the Commission;

2. Providing reasonable standards and procedures:

a. For the establishment and meetings of other committees; and

b. Governing any general or specific delegation of any authority or function of the Commission;

3. Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals of such proceedings, and proprietary information, including trade secrets. The Commission may meet in closed session only after a majority of the Commissioners vote to close a meeting to the public in whole or in part. As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each Commissioner with no proxy votes allowed;

4. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;

5. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar law of any Compact State, the Bylaws shall exclusively govern the personnel policies and programs of the Commission;

6. Promulgating a Code of Ethics to address permissible and prohibited activities of Commission members and employees;

7. Providing a mechanism for concluding the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

8. The Commission shall publish its Bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compact States;

9. The Commission shall maintain its financial records in accordance with the Bylaws; and

10. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the Bylaws.

D. The Commission shall have the following powers:

1. The authority to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rule shall have the force and effect of law and shall be binding in all Compact States;

2. To bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Psychology Regulatory Authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law shall not be affected;

3. To purchase and maintain insurance and bonds;

4. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compact State;

5. To hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

6. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

7. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of

impropriety;

8. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property real, personal or mixed;

9. To establish a budget and make expenditures;

10. To borrow money;

11. To appoint committees, including advisory committees comprised of Members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the Bylaws;

12. To provide and receive information from, and to cooperate with, law enforcement agencies;

13. To adopt and use an official seal; and

14. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice and telepsychology practice.

E. The Executive Board

The elected officers shall serve as the Executive Board, which shall have the power to act on behalf of the Commission according to the terms of this Compact.

1. The Executive Board shall be comprised of six members:

a. Five voting members who are elected from the current membership of the Commission by the Commission;

b. One ex-officio, nonvoting member from the recognized membership organization composed of State and Provincial Psychology Regulatory Authorities.

2. The ex-officio member must have served as staff or member on a State Psychology Regulatory Authority and will be selected by its respective organization.

3. The Commission may remove any member of the Executive Board as provided in Bylaws.

4. The Executive Board shall meet at least annually.

5. The Executive Board shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or Bylaws, changes to this Compact legislation, fees paid by Compact States such as annual dues, and any other applicable fees;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of member states and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in Rules or Bylaws.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations and grants of money, equipment, supplies, materials and services.

3. The Commission may levy on and collect an annual assessment from each Compact State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission which shall promulgate a rule binding upon all Compact States.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Compact States, except by and with the authority of the Compact State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its Bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, Executive Director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, Executive Director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission

that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, Executive Director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional or willful or wanton misconduct of that person.

ARTICLE XI

RULEMAKING

A. The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment.

B. If a majority of the legislatures of the Compact States rejects a rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such rule shall have no further force and effect in any Compact State.

C. Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

D. Prior to promulgation and adoption of a final rule or Rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission; and

2. On the website of each Compact States' Psychology Regulatory Authority or the publication in which each state would otherwise publish proposed rules.

E. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the rule will be considered and voted upon;

2. The text of the proposed rule or amendment and the reason for the proposed rule;

3. A request for comments on the proposed rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

F. Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions and arguments, which shall be made available to the public.

G. The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons who submit comments independently of each other;

2. A governmental subdivision or agency; or

3. A duly appointed person in an association that has at least twenty-five (25) members.

H. If a hearing is held on the proposed rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing.

1. All persons wishing to be heard at the hearing shall notify the Executive Director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. No transcript of the hearing is required, unless a written request for a transcript is made, in which case the person requesting the transcript shall bear the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This subsection shall not preclude the Commission from making a transcript or recording of the hearing if it so chooses.

4. Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

I. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

J. The Commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed rule without a public hearing.

L. Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no

event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Compact State funds;

3. Meet a deadline for the promulgation of an administrative rule that is established by federal law or rule; or

4. Protect public health and safety.

M. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE XII

OVERSIGHT, DISPUTE RESOLUTION AND ENFORCEMENT

A. Oversight

1. The Executive, Legislative and Judicial branches of state government in each Compact State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a Compact State pertaining to the subject matter of this Compact which may affect the powers, responsibilities or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Compact State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

a. Provide written notice to the defaulting state and other Compact States of the nature of the default, the proposed means of remedying the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

2. If a state in default fails to remedy the default, the defaulting state may be terminated from the Compact upon an affirmative vote of a majority of the Compact States, and all rights, privileges and benefits conferred by this Compact shall be terminated on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

3. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be submitted by the Commission to the Governor, the majority and minority leaders of the defaulting state's legislature, and each of the Compact States.

4. A Compact State which has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations which extend beyond the effective date of termination.

5. The Commission shall not bear any costs incurred by the state which is found to be in default or which has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting state.

6. The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the State of Georgia or the federal district where the Compact has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. Upon request by a Compact State, the Commission shall attempt to resolve disputes related to the Compact which arise among Compact States and between Compact and Non-Compact States.

2. The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

D. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the State of Georgia or the federal district where the Compact has its principal offices against a Compact State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and Bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any

other remedies available under federal or state law.

ARTICLE XIII

DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES, WITHDRAWAL, AND AMENDMENTS

A. The Compact shall come into effect on the date on which the Compact is enacted into law in the seventh Compact State. The provisions which become effective at that time shall be limited to the powers granted to the Commission relating to assembly and the promulgation of rules. Thereafter, the Commission shall meet and exercise rulemaking powers necessary to the implementation and administration of the Compact.

B. Any state which joins the Compact subsequent to the Commission's initial adoption of the rules shall be subject to the rules as they exist on the date on which the Compact becomes law in that state. Any rule which has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that state.

C. Any Compact State may withdraw from this Compact by enacting a statute repealing the same.

1. A Compact State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Psychology Regulatory Authority to comply with the investigative and adverse action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a Compact State and a Non-Compact State which does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Compact States. No amendment to this Compact shall become effective and binding upon any Compact State until it is enacted into the law of all Compact States.

ARTICLE XIV

CONSTRUCTION AND SEVERABILITY

This Compact shall be liberally construed so as to effectuate the purposes thereof. If this Compact shall be held contrary to the constitution of any state member thereto, the Compact shall remain in full force and effect as to the remaining Compact States.

(2) Subsection (1) shall be known as the "psychology interjurisdictional compact".

History: Add. 2022, Act 255, Eff. Mar. 29, 2023
Popular Name: Act 368

333.16191 Certificate of licensure or registration; issuance; display; card to be available for inspection; displaying statement of limitation.

Sec. 16191.

(1) The department shall issue a certificate of licensure or registration to an applicant who is granted a license or registration by a board.

(2) A licensee or registrant shall display his or her current certificate of licensure or registration prominently and where visible to the public in the licensee's or registrant's principal place of business, if any.

(3) A licensee or registrant shall have available for inspection a card, which shall be issued by the department, containing the essential information on the certificate.

(4) If a license is limited by a board, the licensee shall display the statement of limitation prepared by the department in the same manner as prescribed for display of the certificate and shall attach the statement to the certificate or display the statement in immediate proximity with the certificate.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.16192 Reporting change in name or address; notice of hearing or complaint; service; license or registration not transferable; service by electronic mail.

Sec. 16192.

(1) A licensee or registrant shall report to the department a change in name, mailing address, or electronic mail address if the licensee or registrant has provided an electronic mail address under subsection (4), not later than 30 days after the change occurs.

(2) The department may serve a notice of hearing or a complaint on an applicant, licensee, or registrant in an action or proceeding for a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 by regular mail and by certified mail, return receipt requested, to the applicant's, licensee's, or registrant's last known address, by serving the notice on the applicant, licensee, or registrant, or by making a reasonable attempt to serve the notice on the applicant, licensee, or registrant. For purposes of this subsection, if service is by mail, service is effective 3 days after the date of mailing, and nondelivery does not affect the validity of the service if the nondelivery was caused by the refusal of the applicant, licensee, or registrant to accept service.

(3) A license or registration is not transferable.

(4) If the department is required or permitted under this article to deliver or serve a notice or other communication to a licensee or registrant by mail, the department may deliver or serve the notice or communication by electronic mail rather than by first-class mail if the licensee or registrant has provided an electronic mail address to the department; authorized the department in writing to deliver or serve notices and communications to the licensee or registrant at the electronic mail address; and agreed in writing that the licensee or registrant consents to the service of any notice or communication sent to the electronic mail address that the department would otherwise serve by mail.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013 ;-- Am. 2016, Act 49, Eff. June 13, 2016
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€Enacting section 1 of Act 49 of 2016 provides:"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."
Popular Name: Act 368

333.16193 Chemical analysis; implied consent to submit.

Sec. 16193.

Acceptance of a license or registration under this article constitutes implied consent to submit to a chemical analysis under section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430.

History: Add. 2003, Act 234, Imd. Eff. Dec. 29, 2003
Popular Name: Act 368

333.16194 Expiration of licenses and registrations for health professions; authority to issue part-term licenses and registrations.

Sec. 16194.

(1) Licenses and registrations for health professions expire on dates prescribed by the department by rule, unless sooner terminated by death of the individual licensed or registered or otherwise terminated pursuant to this part.

(2) Administrative authority to issue part-term licenses and registrations due to changing the terms from annual to a longer term in subsection (1) and to provide for initial issuances for terms longer or shorter than a normal term is granted in section 1222.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

Admin Rule: R 338.7001 et seq. of the Michigan Administrative Code.

333.16196 License or registration of individual inducted or entering into service; continuation; notice.

Sec. 16196.

The license or registration of an individual practicing his or her profession while in active service in the military service of the United States, an auxiliary thereof, or the United States public health service, who was licensed or registered at the time of induction or entering into service, continues in effect without further action by the individual until discharge or leaving the service. The individual shall notify the board of the military service or federal employment and the cessation thereof.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.16201 Renewal of license or registration; mailing notice; electronic mail; failure to receive notice; failure to renew; relicensing or reregistration; temporary license or registration; authority to impose sanctions not terminated by expiration or surrender of license or registration.

Sec. 16201.

(1) A licensee or registrant shall renew the license or registration on or before the expiration date as prescribed by rule. The department shall mail a notice to the licensee or registrant at the last known address on file with a board, or may send the notice by electronic mail to a licensee or registrant described in section 16192(4), advising of the time, procedure, and fee for renewal. Failure of the licensee or registrant to receive notice under this subsection does not relieve the licensee or registrant of the responsibility for renewing his or her license or registration.

(2) A license or registration not renewed by the expiration date may be renewed within 60 days after the expiration date on application, payment of renewal and late renewal fees, and fulfillment of any continued competency or continuing education requirements set forth in this article or rules promulgated under this article. The licensee or registrant may continue to practice and use the title during the 60-day time period.

(3) If a license or registration is not renewed within 60 days after the expiration date under subsection (2), the license or registration is considered null and void. The licensee shall not practice or use the title and a registrant shall not use the title. Except as otherwise provided in this article or by rule, an individual may be relicensed or reregistered within 3 years after the expiration date on application, payment of the application processing, renewal, and late renewal fees, and fulfillment of any continued competency or continuing education requirements in effect on the expiration date, or that would have been required had the individual renewed his or her license or registration under subsection (1). A temporary license or registration may be issued under section 16181 pending the results of action taken under this subsection.

(4) Except as otherwise provided in this article or by rule, an individual may be relicensed or reregistered more than 3 years after the expiration date on application as a new applicant, meeting all licensure or registration requirements in effect at the time of application, taking or retaking and passing any examinations required for initial licensure or registration, and payment of fees required of new applicants.

(5) The expiration or surrender of a license or registration does not terminate the board's authority to impose sanctions on the licensee or registrant whose license or registration has expired or been surrendered.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1981, Act 79, Imd. Eff. June 30, 1981 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1988, Act 462, Eff. Sept. 1, 1989 ;-- Am. 2016, Act 49, Eff. June 13, 2016 ;-- Am. 2019, Act 96, Eff. Jan. 27, 2020
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€Enacting section 1 of Act 49 of 2016 provides:"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."
Popular Name: Act 368

333.16203 Repealed. 1986, Act 174, Imd. Eff. July 7, 1986.

Compiler's Notes: The repealed section pertained to relicensing or reregistration of individuals and to temporary licenses.
Popular Name: Act 368

333.16204 Completion of continuing education as condition for license renewal; completion of hours or courses in pain and symptom management; rules; certain individuals excluded.

Sec. 16204.

(1) Effective for the renewal of licenses or registrations issued under this article and expiring after January 1, 1997 if the completion of continuing education is a condition for renewal, the appropriate board shall by rule require an applicant for renewal to complete an appropriate number of hours or courses in pain and symptom management. Rules promulgated by a board under section 16205(2) for continuing education in pain and symptom management shall cover both course length and content and shall take into consideration the recommendation for that health care profession by the interdisciplinary advisory committee created in section 16204a. A board shall submit the notice of public hearing for the rules as required under section 42 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.242, not later than 90 days after the first interdisciplinary advisory committee makes its initial recommendations and shall promulgate the rules as expeditiously as possible.

(2) If a board proposes rules under section 16205(2) to institute a requirement that continuing education be a mandatory condition for the renewal of a license or registration issued under this article, the rules shall require, as part of the continuing education requirements, completion of an appropriate number of hours or courses in pain and symptom management, taking into consideration the recommendation for that health care profession by the interdisciplinary advisory committee created in section 16204a.

(3) This section does not apply to individuals licensed or registered under part 184 or 188.

History: Add. 1994, Act 234, Imd. Eff. June 30, 1994 ;-- Am. 2005, Act 273, Imd. Eff. Dec. 19, 2005
Popular Name: Act 368

333.16204a Advisory committee on pain and symptom management; creation; members; compensation; expenses; terms; duties; review of guidelines.

Sec. 16204a.

(1) Subject to subsection (2), an advisory committee on pain and symptom management is created in the department. The committee consists of the following members appointed in the following manner:

(a) The Michigan board of medicine created in part 170 and the Michigan board of osteopathic medicine and surgery created in part 175 each shall appoint 2 members, 1 of whom is a physician specializing in primary care and 1 of whom is a physician certified in the specialty of pain medicine by 1 or more national professional organizations approved by the department of consumer and industry services, including, but not limited to, the American board of medical specialists or the American board of pain medicine.

(b) One psychologist who is associated with the education and training of psychology students, appointed by the Michigan board of psychology created in part 182.

(c) One individual appointed by the governor who is representative of the general public.

(d) One registered professional nurse with training in pain and symptom management who is associated with the education and training of nursing students, appointed by the Michigan board of nursing created in part 172.

(e) One dentist with training in pain and symptom management who is associated with the education and training of dental students, appointed by the Michigan board of dentistry created in part 166.

(f) One pharmacist with training in pain and symptom management who is associated with the education and training of pharmacy students appointed by the Michigan board of pharmacy created in part 177.

(g) One individual appointed by the governor who represents the Michigan hospice organization or its successor.

(h) One representative from each of the state's medical schools, appointed by the governor.

(i) One individual appointed by the governor who has been diagnosed as a chronic pain sufferer.

(j) One physician's assistant with training in pain and symptom management appointed by the Michigan task force on physician's assistants.

(k) The director of the department of consumer and industry services or his or her designee, who shall serve as chairperson.

(l) The director of the department of community health or his or her designee.

(2) Advisory committee members appointed under subsection (1)(a) through (j) shall receive per diem compensation as established by the legislature and shall be reimbursed for expenses under section 1216.

(3) The advisory committee members appointed under subsection (1)(a) through (j) shall be appointed by May 15, 1999. A member of the advisory committee shall serve for a term of 2 years or until a successor is appointed, whichever is later. A vacancy on the advisory committee shall be filled in the same manner as the original appointment.

(4) The advisory committee shall do all of the following, as necessary:

(a) At least once annually consult with all of the following boards to develop an integrated approach to understanding and applying pain and symptom management techniques:

(i) All licensure boards created under this article, except the Michigan board of veterinary medicine.

(ii) The Michigan board of social work created in section 18505.

(b) Hold a public hearing in the same manner as provided for a public hearing held under the administrative procedures act of 1969, within 90 days after the members of the advisory committee are appointed under subsection (1) to gather information from the general public on issues pertaining to pain and symptom management.

(c) Develop and encourage the implementation of model core curricula on pain and symptom management.

(d) Develop recommendations to the licensing and registration boards and the task force created under this article on integrating pain and symptom management into the customary practice of health care professionals and identifying the role and responsibilities of the various health care professionals in pain and symptom management.

(e) Advise the licensing and registration boards created under this article on the duration and content of continuing education requirements for pain and symptom management.

(f) Annually report on the activities of the advisory committee and make recommendations on the following issues to the director of the department of consumer and industry services and to the director of the department of community health:

(i) Pain management educational curricula and continuing educational requirements of institutions providing health care education.

(ii) Information about the impact and effectiveness of previous recommendations, if any, that have been implemented, including, but not limited to, recommendations made under subdivision (d).

(iii) Activities undertaken by the advisory committee in complying with the duties imposed under subdivisions (c) and (d).

(g) Beginning in January of 2000, annually review any changes occurring in pain and symptom management.

(5) In making recommendations and developing written materials under subsection (4), the advisory committee shall review guidelines on pain and symptom management issued by the United States department of health and human services.

History: Add. 1994, Act 232, Imd. Eff. June 30, 1994 ;-- Am. 1998, Act 421, Eff. Apr. 1, 1999 ;-- Am. 2001, Act 234, Imd. Eff. Jan. 3, 2002

Compiler's Notes: For transfer of the advisory committee on pain and symptom management to the department of community health by Type II transfer, see. E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular Name: Act 368

333.16204b Treatment of pain; enactment of legislation.

Sec. 16204b.

The legislature finds that the treatment of pain is an appropriate issue for the legislature to consider, and that the citizens of this state would be well served by the enactment of legislation that accomplishes all of the following:

(a) Provides more and better information to health care consumers regarding the medical treatment of pain, health care coverage and benefits for the treatment of pain, and the education of health professionals in pain and symptom management.

(b) Provides for the appointment of an advisory body to study and make recommendations on model core

curricula on pain and symptom management for the institutions in this state providing health care education, continuing education for health professionals on pain and symptom management, and the integration of pain and symptom management into the customary practice of health care.

(c) Educates health professionals about the disciplinary process for state licensees and registrants, including, but not limited to, how the department of consumer and industry services processes allegations of wrongdoing against licensees and registrants.

History: Add. 1998, Act 422, Eff. Apr. 1, 1999 ;-- Am. 2001, Act 241, Imd. Eff. Jan. 8, 2002
Popular Name: Act 368

333.16204c Medical treatment of pain; use of controlled substances; legislative findings; treatment by licensed health professionals; electronic monitoring system; â€œcontrolled substanceâ€ defined.

Sec. 16204c.

(1) The legislature finds that the use of controlled substances is appropriate in the medical treatment of certain forms of pain, and that efforts to control diversion or improper administration of controlled substances should not interfere with the legitimate, medically recognized use of those controlled substances to relieve pain and suffering.

(2) The legislature finds that some patients in this state with pain are unable to obtain from their health care providers sufficient pain relief through the prescription of controlled substances, especially controlled substances included in schedule 2 under section 7214.

(3) It is the intent of the legislature to permit and facilitate adequate treatment for pain by licensed health professionals, including, but not limited to, the prescription or dispensing of controlled substances included in schedule 2 under section 7214, when medically appropriate, and to enable regulatory and law enforcement agencies to prevent the abuse and diversion of controlled substances by creating an electronic monitoring system.

(4) As used in this section, "controlled substance" means that term as defined in section 7104.

History: Add. 1998, Act 423, Eff. Apr. 1, 1999 ;-- Am. 2001, Act 241, Imd. Eff. Jan. 8, 2002
Popular Name: Act 368

333.16204d Information booklet on pain; development by department of consumer and industry services; educational program for health professionals.

Sec. 16204d.

(1) The department of consumer and industry services, in consultation with the department of community health, shall develop, publish, and distribute an informational booklet on pain. The department of consumer and industry services shall include at least all of the following in the informational booklet:

(a) Pain management educational curricula and continuing educational requirements of institutions providing health care education recommended by the advisory committee on pain and symptom management under section 16204a.

(b) Other information considered relevant or useful by the department of consumer and industry services.

(2) The department of consumer and industry services, in conjunction with the controlled substances advisory commission created in article 7, shall develop and conduct an educational program for health professionals who are licensed under part 73 to prescribe or dispense, or both, controlled substances. The department of consumer and industry services shall include, at a minimum, all of the following in the educational program:

(a) Information on how the department of consumer and industry services processes allegations of wrongdoing against licensees under this article and article 17, including, but not limited to, how the permanent historical record is maintained for each licensee, how and why a review of the permanent historical record is done, and how the decision is made to issue a formal complaint against a licensee.

(b) Information on the disciplinary process, including a licensee's rights and duties if an allegation of wrongdoing is filed against the licensee or if some other circumstance occurs that causes or requires the department of consumer and industry services to review a licensee's permanent historical record.

(c) Other information considered relevant or useful by the department of consumer and industry services or the

controlled substances advisory commission, especially information that would address the findings and statements of intent contained in section 16204c.

History: Add. 1998, Act 423, Eff. Apr. 1, 1999 ;-- Am. 2001, Act 241, Imd. Eff. Jan. 8, 2002
Popular Name: Act 368

333.16204e Rules; circumstances under which bona fide prescriber-patient relationship not required.

Sec. 16204e.

Not later than 1 year after the effective date of the amendatory act that added this section, the department in consultation with the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, the Michigan board of dentistry, the Michigan board of podiatric medicine and surgery, the Michigan board of optometry, the Michigan task force on physician's assistants, and the Michigan board of nursing may promulgate rules describing the circumstances under which a bona fide prescriber-patient relationship is not required for purposes of prescribing a schedule 2 to 5 controlled substance under section 7303a(2). The rules may include an alternative requirement for prescribing a schedule 2 to 5 controlled substance when a bona fide prescriber-patient relationship is not required by the rules promulgated under this section.

History: Add. 2017, Act 247, Imd. Eff. Dec. 27, 2017
Popular Name: Act 368

333.16205 Attendance at educational programs as condition to license renewal; waiver; rules for assessing continued competence.

Sec. 16205.

(1) A board which requires evidence of attendance at educational programs as a condition to license renewal may waive those requirements if, upon written application, the board finds the failure of the licensee to attend was due to the licensee's disability, military service, absence from the continental United States, or a circumstance beyond the control of the licensee which the board considers good and sufficient.

(2) A board may promulgate rules to establish a system of assessing the continued competence of licensees as a condition of periodic license renewal.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1984, Act 268, Imd. Eff. Dec. 18, 1984 ;-- Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986
Popular Name: Act 368

333.16206 Electronic continuing education tracking system; agreement with nongovernmental entity; rules.

Sec. 16206.

(1) The department may enter into an agreement with an entity that is not an agency of a state or the federal government to provide an electronic continuing education tracking system that provides an electronic record of the continuing education courses, classes, or programs completed by all of the individuals who are licensed or registered under this article. All of the following apply to an electronic system provided by an agreement under this subsection:

(a) All continuing education tracking provided by the system must accurately reflect the continuing education requirements under this article and rules promulgated under this article.

(b) A confirmation of completion of continuing education requirements generated by the system is considered verification of completion of those requirements for renewal of a license or registration and for purposes of any

audit of licensees or registrants conducted by the department.

(c) The system must provide access to continuing education information about an individual who is licensed or registered under this article to the individual, to the appropriate board for the individual's health profession, and to the department.

(2) The department shall promulgate any rules it considers appropriate to implement and administer this section.

History: Add. 2016, Act 29, Eff. June 6, 2016
Popular Name: Act 368

333.16208 Expired. 1978, Act 368, Eff. Sept. 30, 1984.

Compiler's Notes: The expired section pertained to assessing continued competency of licensees. Subsequent to its expiration this section was repealed by Act 268 of 1984.
Popular Name: Act 368

333.16211 Individual historical record; creation; contents; review by department; retention of unsubstantiated allegations; removal; review of record by licensee or applicant.

Sec. 16211.

(1) The department shall create and maintain a permanent historical record for each licensee and registrant with respect to information and data transmitted pursuant to law.

(2) The individual historical record shall include a written allegation against the licensee or registrant that is substantiated after investigation.

(3) The individual historical record may include other items concerning a licensee's or registrant's record of practice that the appropriate board determines will facilitate proper and periodic review, but only those items as designated by rule.

(4) The department shall promptly review the entire file of a licensee or registrant, including all prior matters with respect to which no action was taken at the time, with respect to whom there is received 1 or more of the following:

(a) A notice of revocation, suspension, or limitation of staff privileges or a change in employment status due to disciplinary action by a licensed health facility.

(b) A written allegation of a violation of this article, article 7, or a rule promulgated under this article or article 7 that is substantiated after investigation.

(c) A notice of disciplinary action by a health professional society.

(d) An adverse malpractice settlement, award, or judgment.

(e) Written notice of 1 or more of the following:

(i) A felony conviction.

(ii) A misdemeanor conviction punishable by imprisonment for a maximum term of 2 years.

(iii) A misdemeanor conviction, if the misdemeanor involves the illegal delivery, possession, or use of alcohol or a controlled substance.

(f) Notice that a licensee or registrant is ineligible to participate as a provider in a federally funded health insurance or health benefits program based upon the licensee's or registrant's failure to meet the program's standards of professional practice. A certified copy of the action or final order making the licensee or registrant ineligible is sufficient notice for purposes of this subdivision.

(g) A report or notice under section 16222.

(h) Notice of a disciplinary action by a licensure, registration, disciplinary, or specialty certification board in another state.

(5) The department shall retain written allegations that are unsubstantiated for 5 years, after which the department shall remove the allegations from the file, if no further allegations against the licensee or registrant have been received by the department within the 5-year period.

(6) Except as provided in section 16231(6), a licensee, registrant, or applicant may review his or her individual historical record.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.16213 Retention of records.

Sec. 16213.

(1) A licensee shall keep and maintain a record for each patient for whom the licensee has provided medical services, including a full and complete record of tests and examinations performed, observations made, and treatments provided. If a medical service provided to a patient on or after the effective date of the amendatory act that added this sentence involves the vaginal or anal penetration of the patient, a licensee shall expressly state in the patient's record that vaginal or anal penetration was performed unless the medical service meets any of the circumstances described in subsection (2)(b)(i), (ii), (iii), or (iv).

(2) Unless a longer retention period is otherwise required under federal or state laws or regulations or by generally accepted standards of medical practice, a licensee shall keep and retain each record required under subsection (1) as follows:

(a) Except as otherwise provided in subdivision (b), for a minimum of 7 years from the date of service to which the record pertains.

(b) If the record is for a medical service performed on or after the effective date of the amendatory act that added this subdivision that involves the vaginal or anal penetration of a patient, for a minimum of 15 years from the date of service to which the record pertains. This subdivision does not apply to a record for any of the following:

(i) A medical service that primarily relates to the patient's urological, gastrointestinal, reproductive, gynecological, or sexual health.

(ii) A medical service that is necessary and associated with or incident to a medical emergency. As used in this subparagraph, "medical emergency" means a circumstance that, in the licensee's good-faith medical judgment, creates an immediate threat of serious risk to the life or physical health of the patient.

(iii) A medical service performed for the purpose of rectally administering a drug or medicine.

(iv) A medical service performed to measure a patient's temperature.

(3) The records required under subsection (1) must be maintained in such a manner as to protect their integrity, to ensure their confidentiality and proper use, and to ensure their accessibility and availability to each patient or the patient's authorized representative as required by law.

(4) Except as otherwise provided in subsection (7), a licensee may destroy a record required under subsection (1) that is less than 7 years old only if both of the following are satisfied:

(a) The licensee sends a written notice to the patient at the last known address of that patient informing the patient that the record is about to be destroyed, offering the patient the opportunity to request a copy of that record, and requesting the patient's written authorization to destroy the record.

(b) The licensee receives written authorization from the patient or the patient's authorized representative agreeing to the destruction of the record.

(5) If a licensee is unable to comply with this section, the licensee shall employ or contract, arrange, or enter into an agreement with another health care provider, a health facility or agency, or a medical records company to protect, maintain, and provide access to those records required under subsection (1).

(6) If a licensee or registrant sells or closes the licensee's or registrant's practice, retires from practice, or otherwise ceases to practice under this article, the licensee or the personal representative of the licensee, if the licensee is deceased, shall not abandon the records required under this section and shall send a written notice to the department that specifies who will have custody of the medical records and how a patient may request access to or copies of the patient's medical records and shall do either of the following:

(a) Transfer the records required under subsection (1) to any of the following:

(i) A successor licensee.

(ii) If requested by the patient or the patient's authorized representative, to the patient or a specific health facility or agency or other health care provider licensed under article 15.

(iii) A health care provider, a health facility or agency, or a medical records company with which the licensee had contracted or entered into an agreement to protect, maintain, and provide access to those records required under subsection (1).

(b) Except as otherwise provided in subsection (7), and in accordance with subsections (1) to (4), as long as the licensee or the personal representative of the licensee, if the licensee is deceased, sends a written notice to the last known address of each patient for whom the licensee has provided medical services and receives written

authorization from the patient or the patient's authorized representative, destroy the records required under subsection (1). The notice must provide the patient with 30 days to request a copy of the patient's records or to designate where the patient would like the patient's medical records transferred and must request from the patient within 30 days written authorization for the destruction of the patient's medical records. Except as otherwise provided in subsection (7), if the patient fails to request a copy or transfer of the patient's medical records or to provide the licensee with written authorization for the destruction, then the licensee or the personal representative of the licensee shall not destroy those records that are less than 7 years old but may destroy, in accordance with subsection (8), those that are 7 years old or older.

(7) A licensee or the personal representative of a licensee, if the licensee is deceased, shall only destroy a record described in subsection (2)(b) in accordance with subsection (8).

(8) Except as otherwise provided under this section or federal or state laws and regulations, records required to be maintained under subsection (1), other than a record described in subsection (2)(b), may be destroyed or otherwise disposed of after being maintained for 7 years and records described in subsection (2)(b) may be destroyed or otherwise disposed of after being maintained for 15 years. If records maintained in accordance with this section are subsequently destroyed or otherwise disposed of, those records must be shredded, incinerated, electronically deleted, or otherwise disposed of in a manner that ensures continued confidentiality of the patient's health care information and any other personal information relating to the patient. If records are not destroyed or otherwise disposed of as provided under this subsection, the department may take action, including, but not limited to, contracting for or making other arrangements to ensure that those records and any other confidential identifying information related to the patient are properly destroyed or disposed of to protect the confidentiality of patient's health care information and any other personal information relating to the patient. Before the department takes action in accordance with this subsection, the department, if able to identify the licensee responsible for the improper destruction or disposal of the medical records at issue, shall send a written notice to that licensee at the licensee's last known address or place of business on file with the department and provide the licensee with an opportunity to properly destroy or dispose of those medical records as required under this subsection unless a delay in the proper destruction or disposal may compromise the patient's confidentiality. The department may assess the licensee with the costs incurred by the department to enforce this subsection.

(9) Except as otherwise provided in section 16213a, a person that fails to comply with this section is subject to an administrative fine of not more than $10,000.00 if the failure was the result of gross negligence or willful and wanton misconduct.

(10) Nothing in this section shall be construed to create or change the ownership rights to any medical records.

(11) As used in this section:

(a) "Medical record" or "record" means information, oral or recorded in any form or medium, that pertains to a patient's health care, medical history, diagnosis, prognosis, or medical condition and that is maintained by a licensee in the process of providing medical services.

(b) "Medical records company" means a person who contracts for or agrees to protect, maintain, and provide access to medical records for a health care provider or health facility or agency in accordance with this section.

(c) "Patient" means an individual who receives or has received health care from a health care provider or health facility or agency. Patient includes a guardian, if appointed, and a parent, guardian, or person acting in loco parentis, if the individual is a minor, unless the minor lawfully obtained health care without the consent or notification of a parent, guardian, or other person acting in loco parentis, in which case the minor has the exclusive right to exercise the rights of a patient under this section with respect to the minor's medical records relating to that care.

History: Add. 2006, Act 481, Imd. Eff. Dec. 22, 2006 ;-- Am. 2023, Act 62, Eff. Oct. 10, 2023
Popular Name: Act 368

333.16213a Violation of record retention; medical service involving vaginal or anal penetration; penalties.

Sec. 16213a.

(1) Except as otherwise provided in subsections (2) and (3), a person that violates section 16213(1) regarding the documentation of a medical service involving vaginal or anal penetration in a patient's medical record is subject to an administrative fine or guilty of a crime as follows:

(a) For a first violation, an administrative fine of not more than $1,000.00.

(b) For a second violation, an administrative fine of not more than $2,500.00.

(c) For a third or subsequent violation, a misdemeanor punishable by imprisonment for not more than 180 days or a fine of not more than $5,000.00, or both.

(2) A person that violates section 16213(1) regarding the documentation of a medical service involving vaginal or anal penetration in a patient's medical record is guilty of a misdemeanor punishable by imprisonment for not more than 180 days or a fine of $5,000.00, or both, if the violation was the result of gross negligence.

(3) A person that intentionally violates section 16213(1) regarding the documentation of a medical service involving vaginal or anal penetration in a patient's medical record is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $7,500.00, or both.

(4) This section does not limit any other sanction or additional action a disciplinary subcommittee is authorized to impose or take.

History: Add. 2023, Act 62, Eff. Oct. 10, 2023
Popular Name: Act 368

333.16215 Delegation of acts, tasks, or functions to licensed or unlicensed individual; supervision; rules; immunity; third party reimbursement or worker's compensation benefits.

Sec. 16215.

(1) Subject to subsections (2) to (6), a licensee who holds a license other than a health profession subfield license may delegate to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience the performance of selected acts, tasks, or functions where the acts, tasks, or functions fall within the scope of practice of the licensee's profession and will be performed under the licensee's supervision. A licensee shall not delegate an act, task, or function under this section if the act, task, or function, under standards of acceptable and prevailing practice, requires the level of education, skill, and judgment required of the licensee under this article.

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

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

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

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

(a) Performing acupuncture. This subdivision does not apply beginning 36 months after the effective date of the rules promulgated under section 16525 on the licensure of acupuncturists.

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

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

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

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

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

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

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

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

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1990, Act 279, Eff. Mar. 28, 1991 ;-- Am. 1999, Act 60, Eff. Sept. 1, 1999 ;-- Am. 2005, Act 211, Imd. Eff. Nov. 17, 2005 ;-- Am. 2019, Act 140, Eff. Mar. 4, 2020
Popular Name: Act 368

333.16216 Disciplinary subcommittee for board or task force; members; voting; chairperson; final decision; set aside by department; issuance of different final action; inclusion of final decision on website.

Sec. 16216.

(1) The chair of each board or task force shall appoint 1 or more disciplinary subcommittees for that board or task force. A disciplinary subcommittee for a board or task force shall consist of 2 public members and 3 professional members from the board or task force.

(2) A final decision of a disciplinary subcommittee finding a violation of this article, article 7, or article 8 requires a majority vote of the members appointed and serving on the disciplinary subcommittee.

(3) A final decision of a disciplinary subcommittee imposing a sanction under this article, article 7, or article 8 or a final decision of a disciplinary subcommittee other than a final decision described in subsection (2) requires a majority vote of the members appointed and serving on the disciplinary subcommittee with an affirmative vote by at least 1 public member.

(4) The chair of a board or task force shall appoint a public member of the disciplinary subcommittee of that board or task force as the chairperson of that disciplinary subcommittee. The chair of a board or task force shall not serve as a member of the disciplinary subcommittee of that board or task force.

(5) The department may review a final decision of a disciplinary subcommittee within 30 days after the date of the disciplinary subcommittee's decision. If the department determines that the action taken by a disciplinary subcommittee does not protect the health, safety, and welfare of the public, the department, with the approval of the board chair, may set aside the decision of the disciplinary subcommittee and issue a different final action. The final action of the department serves as the final action on the matter and is subject to judicial review in the same manner as the final decision of the disciplinary subcommittee.

(6) Beginning January 1, 2015, the department shall include on its public licensing and registration website each final decision that imposes disciplinary action against a licensee, including the reason for and description of that disciplinary action.

History: Add. 1993, Act 87, Eff. Apr. 1, 1994 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013 ;-- Am. 2014, Act 98, Eff. July 1, 2014 ;-- Am. 2014, Act 413, Eff. Mar. 30, 2015
Compiler's Notes: Former MCL 333.16216, which pertained to disciplinary subcommittee for board or task force, was repealed by Act 87 of 1993, Eff. Apr. 1, 1994.
Popular Name: Act 368

333.16216a Member of disciplinary subcommittee; conflict of interest; disclosure; "conflict of interest"

defined.

Sec. 16216a.

(1) A member of a disciplinary subcommittee shall not participate in making a decision of that subcommittee that 1 or more of the grounds listed in section 16221 exist, in any investigation, or in the imposition of sanctions under section 16226, concerning a licensee or registrant if that subcommittee member has a conflict of interest.

(2) A member of a disciplinary subcommittee shall disclose a potential conflict of interest described in subsection (1) before that subcommittee takes any action described in subsection (1).

(3) As used in this section, "conflict of interest" means any of the following:

(a) Has a personal or financial interest in the outcome of the investigation of or the imposition of disciplinary sanctions on the licensee, registrant, or applicant for licensure or registration.

(b) Had a past or has a present business or professional relationship with the individual that the disciplinary subcommittee is investigating or against whom the disciplinary subcommittee is considering sanctions.

(c) Has given expert testimony in a medical malpractice action against or on behalf of the individual that the disciplinary subcommittee is investigating or against whom the disciplinary subcommittee is considering sanctions.

(d) Has other interest or relationship designated as a conflict of interest in a rule promulgated or order issued under this act.

History: Add. 2014, Act 95, Eff. July 1, 2014
Popular Name: Act 368

333.16221 Investigation of licensee, registrant, or applicant for licensure or registration; hearings, oaths, and testimony; complaint; grounds for proceeding under MCL 333.16226.

Sec. 16221.

Subject to section 16221b, the department shall investigate any allegation that 1 or more of the grounds for disciplinary subcommittee action under this section exist, and may investigate activities related to the practice of a health profession by a licensee, a registrant, or an applicant for licensure or registration. The department may hold hearings, administer oaths, and order the taking of relevant testimony. After its investigation, the department shall provide a copy of the administrative complaint to the appropriate disciplinary subcommittee. The disciplinary subcommittee shall proceed under section 16226 if it finds that 1 or more of the following grounds exist:

(a) Except as otherwise specifically provided in this section, a violation of general duty, consisting of negligence or failure to exercise due care, including negligent delegation to or supervision of employees or other individuals, whether or not injury results, or any conduct, practice, or condition that impairs, or may impair, the ability to safely and skillfully engage in the practice of the health profession.

(b) Personal disqualifications, consisting of 1 or more of the following:

(i) Incompetence.

(ii) Subject to sections 16165 to 16170a, substance use disorder as that term is defined in section 100d of the mental health code, 1974 PA 258, MCL 330.1100d.

(iii) Mental or physical inability reasonably related to and adversely affecting the licensee's or registrant's ability to practice in a safe and competent manner.

(iv) Declaration of mental incompetence by a court of competent jurisdiction.

(v) Conviction of a misdemeanor punishable by imprisonment for a maximum term of 2 years; conviction of a misdemeanor involving the illegal delivery, possession, or use of a controlled substance; or conviction of any felony other than a felony listed or described in another subparagraph of this subdivision. A certified copy of the court record is conclusive evidence of the conviction.

(vi) Lack of good moral character.

(vii) Conviction of a criminal offense under section 520e or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520e and 750.520g. A certified copy of the court record is conclusive evidence of the conviction.

(viii) Conviction of a violation of section 492a of the Michigan penal code, 1931 PA 328, MCL 750.492a. A certified copy of the court record is conclusive evidence of the conviction.

(ix) Conviction of a misdemeanor or felony involving fraud in obtaining or attempting to obtain fees related to the practice of a health profession. A certified copy of the court record is conclusive evidence of the conviction.

(x) Final adverse administrative action by a licensure, registration, disciplinary, or certification board involving the holder of, or an applicant for, a license or registration regulated by another state or a territory of the United States, by the United States military, by the federal government, or by another country. A certified copy of the

record of the board is conclusive evidence of the final action.

(xi) Conviction of a misdemeanor that is reasonably related to or that adversely affects the licensee's or registrant's ability to practice in a safe and competent manner. A certified copy of the court record is conclusive evidence of the conviction.

(xii) Conviction of a violation of section 430 of the Michigan penal code, 1931 PA 328, MCL 750.430. A certified copy of the court record is conclusive evidence of the conviction.

(xiii) Conviction of a criminal offense under section 83, 84, 316, 317, 321, 520b, 520c, 520d, or 520f of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.84, 750.316, 750.317, 750.321, 750.520b, 750.520c, 750.520d, and 750.520f. A certified copy of the court record is conclusive evidence of the conviction.

(xiv) Conviction of a violation of section 136 or 136a of the Michigan penal code, 1931 PA 328, MCL 750.136 and 750.136a. A certified copy of the court record is conclusive evidence of the conviction.

(xv) Conviction of a violation of section 90 of the Michigan penal code, 1931 PA 328, MCL 750.90, or a violation of a state or federal crime that is substantially similar to the violation described in this subparagraph. A certified copy of the court record is conclusive evidence of the conviction.

(c) Prohibited acts, consisting of 1 or more of the following:

(i) Fraud or deceit in obtaining or renewing a license or registration.

(ii) Permitting a license or registration to be used by an unauthorized person.

(iii) Practice outside the scope of a license.

(iv) Obtaining, possessing, or attempting to obtain or possess a controlled substance or a drug as that term is defined in section 7105 without lawful authority; or selling, prescribing, giving away, or administering drugs for other than lawful diagnostic or therapeutic purposes.

(d) Except as otherwise specifically provided in this section, unethical business practices, consisting of 1 or more of the following:

(i) False or misleading advertising.

(ii) Dividing fees for referral of patients or accepting kickbacks on medical or surgical services, appliances, or medications purchased by or in behalf of patients.

(iii) Fraud or deceit in obtaining or attempting to obtain third party reimbursement.

(e) Except as otherwise specifically provided in this section, unprofessional conduct, consisting of 1 or more of the following:

(i) Misrepresentation to a consumer or patient or in obtaining or attempting to obtain third party reimbursement in the course of professional practice.

(ii) Betrayal of a professional confidence.

(iii) Promotion for personal gain of an unnecessary drug, device, treatment, procedure, or service.

(iv) Either of the following:

(A) A requirement by a licensee other than a physician or a registrant that an individual purchase or secure a drug, device, treatment, procedure, or service from another person, place, facility, or business in which the licensee or registrant has a financial interest.

(B) A referral by a physician for a designated health service that violates 42 USC 1395nn or a regulation promulgated under that section. For purposes of this subdivision, 42 USC 1395nn and the regulations promulgated under that section as they exist on June 3, 2002 are incorporated by reference. A disciplinary subcommittee shall apply 42 USC 1395nn and the regulations promulgated under that section regardless of the source of payment for the designated health service referred and rendered. If 42 USC 1395nn or a regulation promulgated under that section is revised after June 3, 2002, the department shall officially take notice of the revision. Within 30 days after taking notice of the revision, the department shall decide whether or not the revision pertains to referral by physicians for designated health services and continues to protect the public from inappropriate referrals by physicians. If the department decides that the revision does both of those things, the department may promulgate rules to incorporate the revision by reference. If the department does promulgate rules to incorporate the revision by reference, the department shall not make any changes to the revision. As used in this sub-subparagraph, "designated health service" means that term as defined in 42 USC 1395nn and the regulations promulgated under that section and "physician" means that term as defined in sections 17001 and 17501.

(v) For a physician who makes referrals under 42 USC 1395nn or a regulation promulgated under that section, refusing to accept a reasonable proportion of patients eligible for Medicaid and refusing to accept payment from Medicaid or Medicare as payment in full for a treatment, procedure, or service for which the physician refers the individual and in which the physician has a financial interest. A physician who owns all or part of a facility in which the physician provides surgical services is not subject to this subparagraph if a referred surgical procedure the physician performs in the facility is not reimbursed at a minimum of the appropriate Medicaid or Medicare outpatient fee schedule, including the combined technical and professional components.

(vi) Any conduct by a licensee or registrant with a patient while the licensee or registrant is acting within the health profession for which the licensee or registrant is licensed or registered, including conduct initiated by a patient or to which the patient consents, that is sexual or may reasonably be interpreted as sexual, including, but not limited to, sexual intercourse, kissing in a sexual manner, or touching of a body part for any purpose other than

appropriate examination, treatment, or comfort.

(vii) Offering to provide practice-related services, such as drugs, in exchange for sexual favors.

(viii) A violation of section 16655(4) by a dental therapist.

(f) Failure to notify under section 16222(3) or (4).

(g) Failure to report a change of name or mailing address as required in section 16192.

(h) A violation, or aiding or abetting in a violation, of this article or of a rule promulgated under this article.

(i) Failure to comply with a subpoena issued pursuant to this part, failure to respond to a complaint issued under this article, article 7, or article 8, failure to appear at a compliance conference or an administrative hearing, or failure to report under section 16222(1) or 16223.

(j) Failure to pay an installment of an assessment levied under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, within 60 days after notice by the appropriate board.

(k) A violation of section 17013 or 17513.

(l) Failure to meet 1 or more of the requirements for licensure or registration under section 16174.

(m) A violation of section 17015, 17015a, or 17515.

(n) Failure to comply with section 9206(3).

(o) A violation of section 5654 or 5655.

(p) A violation of section 16274.

(q) A violation of section 17020 or 17520.

(r) A violation of the medical records access act, 2004 PA 47, MCL 333.26261 to 333.26271.

(s) A violation of section 17764(2).

(t) Failure to comply with the terms of a practice agreement described in section 17047(2)(a) or (b), 17547(2)(a) or (b), or 18047(2)(a) or (b).

(u) A violation of section 7303a(2).

(v) A violation of section 7303a(4) or (5).

(w) A violation of section 7303b.

(x) A violation of section 17754a.

(y) Beginning January 1, 2021, a violation of section 24507 or 24509.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1986, Act 195, Imd. Eff. July 8, 1986 ;-- Am. 1986, Act 319, Imd. Eff. Dec. 26, 1986 ;-- Am. 1987, Act 178, Imd. Eff. Nov. 19, 1987 ;-- Am. 1989, Act 15, Imd. Eff. May 15, 1989 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 1993, Act 133, Eff. Apr. 1, 1994 ;-- Am. 1995, Act 196, Imd. Eff. Nov. 22, 1995 ;-- Am. 1996, Act 273, Eff. Mar. 31, 1997 ;-- Am. 1996, Act 540, Imd. Eff. Jan. 15, 1997 ;-- Am. 1996, Act 594, Eff. Mar. 31, 1997 ;-- Am. 1998, Act 109, Eff. Mar. 23, 1999 ;-- Am. 1998, Act 227, Imd. Eff. July 3, 1998 ;-- Am. 2000, Act 29, Imd. Eff. Mar. 15, 2000 ;-- Am. 2002, Act 402, Imd. Eff. June 3, 2002 ;-- Am. 2003, Act 234, Imd. Eff. Dec. 29, 2003 ;-- Am. 2004, Act 48, Imd. Eff. Apr. 1, 2004 ;-- Am. 2004, Act 214, Eff. Oct. 12, 2004 ;-- Am. 2011, Act 222, Imd. Eff. Nov. 15, 2011 ;-- Am. 2012, Act 499, Eff. Mar. 31, 2013 ;-- Am. 2012, Act 501, Eff. Jan. 1, 2013 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013 ;-- Am. 2014, Act 97, Eff. July 1, 2014 ;-- Am. 2014, Act 411, Eff. Mar. 30, 2015 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017 ;-- Am. 2017, Act 75, Eff. Oct. 9, 2017 ;-- Am. 2017, Act 246, Imd. Eff. Dec. 27, 2017 ;-- Am. 2017, Act 247, Imd. Eff. Dec. 27, 2017 ;-- Am. 2017, Act 249, Imd. Eff. Dec. 27, 2017 ;-- Am. 2018, Act 463, Eff. Mar. 27, 2019 ;-- Am. 2020, Act 135, Imd. Eff. July 8, 2020 ;-- Am. 2020, Act 232, Imd. Eff. Oct. 22, 2020 ;-- Am. 2023, Act 47, Eff. Sept. 27, 2023 ;-- Am. 2023, Act 209, Eff. Feb. 13, 2024

Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€Section 2 of Act 319 of 1986 provides: â€œSection 16221(e)(iv) of Act No. 368 of the Public Acts of 1978, as added by this amendatory act, shall take effect April 1, 1987.â€

Popular Name: Act 368

333.16221a Investigation of health care provider's recommendation or treatment under right to try act; definitions.

Sec. 16221a.

(1) Except in the case of gross negligence or willful misconduct as determined by the department, a health care provider's recommendation or treatment provided as authorized under the right to try act is not grounds for the department to investigate under section 16221 or for disciplinary action against a licensee under section 16226.

(2) As used in this section:

(a) "Gross negligence" means conduct so reckless as to demonstrate a substantial lack of concern for whether serious injury to a person would result.

(b) "Willful misconduct" means conduct committed with an intentional or reckless disregard for the safety of others, as by failing to exercise reasonable care to prevent a known danger.

History: Add. 2014, Act 346, Imd. Eff. Oct. 17, 2014
Popular Name: Act 368

333.16221b Violation of MCL 333.7303a(4) or (5) or 333.17754a; reasonable basis; issuance of letter.

Sec. 16221b.

(1) If the department has a reasonable basis to believe that a licensee has violated any of the following, the department is not required to investigate under section 16221 or 16231 and may issue a letter to the licensee notifying the licensee that he or she may be in violation of the applicable section:
(a) Section 7303a(4).
(b) Section 7303a(5).
(c) Section 17754a.
(2) A letter that is issued under this section is not considered discipline.

History: Add. 2017, Act 249, Imd. Eff. Dec. 27, 2017 ;-- Am. 2020, Act 135, Imd. Eff. July 8, 2020
Popular Name: Act 368

333.16222 Knowledge of violation; report to department; confidentiality of information; failure to make report; exception; identity of licensee or registrant making report; notice of criminal conviction or disciplinary action by another state.

Sec. 16222.

(1) A licensee or registrant who has knowledge that another licensee or registrant has committed a violation under section 16221, article 7, or article 8 or a rule promulgated under article 7 or article 8 shall report the conduct and the name of the subject of the report to the department. Information obtained by the department under this subsection is confidential and is subject to sections 16238 and 16244. Failure of a licensee or registrant to make a report under this subsection does not give rise to a civil cause of action for damages against the licensee or registrant, but the licensee or registrant is subject to administrative action under sections 16221 and 16226. This subsection does not apply to a licensee or registrant who obtains the knowledge of a violation while providing professional services to the licensee or registrant to whom the knowledge applies, who is serving on a duly constituted ethics or peer review committee of a professional association, or who is serving on a committee assigned a professional review function in a health facility or agency.
(2) Unless the licensee or registrant making a report under subsection (1) otherwise agrees in writing, the identity of the licensee or registrant making a report under subsection (1) shall remain confidential unless disciplinary proceedings under this part are initiated against the subject of the report and the licensee or registrant making the report is required to testify in the proceedings.
(3) A licensee or registrant shall notify the department of any criminal conviction within 30 days after the date of the conviction. Failure of a licensee or registrant to notify the department under this subsection shall result in administrative action under sections 16221 and 16226.
(4) A licensee or registrant shall notify the department of any disciplinary licensing or registration action taken by another state against the licensee or registrant within 30 days after the date of the action. This subsection includes, but is not limited to, a disciplinary action that is stayed pending appeal. Failure of a licensee or registrant to notify the department under this subsection shall result in administrative action under sections 16221 and 16226.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013 ;-- Am. 2014, Act 97, Eff. July 1, 2014
Popular Name: Act 368

333.16223 Impairment of licensee, registrant, or applicant; report; exception; liability.

Sec. 16223.

(1) Except as otherwise provided in this section, a licensee or registrant who has reasonable cause to believe that a licensee, registrant, or applicant is impaired shall report that fact to the department. For purposes of this subsection, a report filed with the committee or with the program consultants described in section 16168 is considered to be filed with the department. A licensee or registrant who fails to report under this subsection is not liable in a civil action for damages resulting from the failure to report, but the licensee or registrant is subject to administrative action under sections 16221 and 16226.

(2) This section does not apply to a licensee or registrant who is in a bona fide health professional-patient relationship with a licensee, registrant, or applicant believed to be impaired.

(3) A licensee or registrant who in good faith complies with this section is not liable for damages in a civil action or subject to prosecution in a criminal proceeding as a result of the compliance.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16224 Failure or refusal to submit to examination as grounds for denial or suspension of license; additional grounds for disciplinary actions.

Sec. 16224.

(1) Failure or refusal to submit to an examination that the department, a disciplinary subcommittee, or a board or task force is authorized to require under this part after reasonable notice and opportunity for a hearing constitutes a ground for denial or suspension of a license or registration until the examination is taken.

(2) Additional grounds for disciplinary action may be found in a part dealing with a specific health profession.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16226 Sanctions; determination; judicial review; maximum and minimum fine for violation of MCL 333.16221(a) or (b); completion of program or examination; permanent revocation; finding; violation of MCL 333.16221(b)(xiv) or (xv); disciplinary subcommittee.

Sec. 16226.

(1) After finding the existence of 1 or more of the grounds for disciplinary subcommittee action listed in section 16221, a disciplinary subcommittee shall impose 1 or more of the following sanctions for each violation:

Violations of Section 16221	Sanctions
Subdivision (a), (b)(i), (b)(ii), (b)(iii), (b)(iv), (b)(v), (b)(vi), (b)(vii), (b)(ix), (b)(x), (b)(xi), or (b)(xii)	Probation, limitation, denial, suspension, revocation, permanent revocation, restitution, or fine.
Subdivision (b)(viii)	Revocation, permanent revocation, or denial.
Subdivision (b)(xiii)	Permanent revocation for a violation described in

	subsection (5); otherwise, probation, limitation, denial, suspension, revocation, restitution, or fine.
Subdivision (b)(xiv) or (b)(xv)	Permanent revocation.
Subdivision (c)(i)	Denial, revocation, suspension, probation, limitation, or fine.
Subdivision (c)(ii)	Denial, suspension, revocation, restitution, or fine.
Subdivision (c)(iii)	Probation, denial, suspension, revocation, restitution, or fine.
Subdivision (c)(iv) or (d)(iii)	Fine, probation, denial, suspension, revocation, permanent revocation, or restitution.
Subdivision (d)(i) or (d)(ii)	Reprimand, fine, probation, denial, or restitution.
Subdivision (e)(i), (e)(iii), (e)(iv), (e)(v), (h), or (r)	Reprimand, fine, probation, limitation, suspension, revocation, permanent revocation, denial, or restitution.
Subdivision (e)(ii) or (i)	Reprimand, probation, suspension, revocation, permanent revocation, restitution, denial, or fine.
Subdivision (e)(vi), (e)(vii), or (e)(viii)	Probation, suspension, revocation, limitation, denial, restitution, or fine.
Subdivision (f)	Reprimand, denial, limitation, probation, or fine.
Subdivision (g)	Reprimand or fine.
Subdivision (j)	Suspension or fine.
Subdivision (k), (o), or (q)	Reprimand, probation, suspension, revocation, permanent revocation, or fine.
Subdivision (l)	Reprimand, denial, or limitation.
Subdivision (m) or (n)	Denial, revocation, restitution, probation, suspension, limitation, reprimand, or fine.
Subdivision (p)	Revocation.
Subdivision (s)	Revocation, permanent revocation, fine, or restitution.
Subdivision (t)	Denial, revocation, probation, suspension, limitation, reprimand, or fine.
Subdivision (u) or (w)	Probation, limitation, denial, fine, suspension, revocation, or

	permanent revocation.
Subdivision (v)	Denial, fine, reprimand, probation, limitation, suspension, revocation, or permanent revocation.
Subdivision (x)	Subject to subsection (7), fine.
Subdivision (y)	Fine.

(2) Determination of sanctions for violations under this section must be made by a disciplinary subcommittee. If, during judicial review, the court of appeals determines that a final decision or order of a disciplinary subcommittee prejudices substantial rights of the petitioner for 1 or more of the grounds listed in section 106 of the administrative procedures act of 1969, MCL 24.306, and holds that the final decision or order is unlawful and is to be set aside, the court shall state on the record the reasons for the holding and may remand the case to the disciplinary subcommittee for further consideration.

(3) A disciplinary subcommittee may impose a fine in an amount that does not exceed $250,000.00 for a violation of section 16221(a) or (b). A disciplinary subcommittee shall impose a fine of at least $25,000.00 if the violation of section 16221(a) or (b) results in the death of 1 or more patients.

(4) A disciplinary subcommittee may require a licensee or registrant or an applicant for licensure or registration who has violated this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 to satisfactorily complete an educational program, a training program, or a treatment program, a mental, physical, or professional competence examination, or a combination of those programs and examinations.

(5) A disciplinary subcommittee shall impose the sanction of permanent revocation for a violation of section 16221(b)(xiii) if the violation occurred while the licensee or registrant was acting within the health profession for which the licensee or registrant was licensed or registered.

(6) Except as otherwise provided in subsection (5) and this subsection, a disciplinary subcommittee shall not impose the sanction of permanent revocation under this section without a finding that the licensee or registrant engaged in a pattern of intentional acts of fraud or deceit resulting in personal financial gain to the licensee or registrant and harm to the health of patients under the licensee's or registrant's care. This subsection does not apply if a disciplinary subcommittee finds that a licensee or registrant has violated section 16221(b)(xiv) or (b)(xv).

(7) A disciplinary subcommittee shall impose a fine of not more than $250.00 for each violation of section 16221(x).

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1986, Act 195, Imd. Eff. July 8, 1986 ;-- Am. 1986, Act 319, Imd. Eff. Dec. 26, 1986 ;-- Am. 1987, Act 178, Imd. Eff. Nov. 19, 1987 ;-- Am. 1989, Act 15, Imd. Eff. May 15, 1989 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 1993, Act 133, Eff. Apr. 1, 1994 ;-- Am. 1996, Act 273, Eff. Mar. 31, 1997 ;-- Am. 1996, Act 540, Imd. Eff. Jan. 15, 1997 ;-- Am. 1996, Act 594, Eff. Mar. 31, 1997 ;-- Am. 1998, Act 109, Eff. Mar. 23, 1999 ;-- Am. 2000, Act 29, Imd. Eff. Mar. 15, 2000 ;-- Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002 ;-- Am. 2003, Act 234, Imd. Eff. Dec. 29, 2003 ;-- Am. 2004, Act 48, Imd. Eff. Apr. 1, 2004 ;-- Am. 2004, Act 214, Eff. Oct. 12, 2004 ;-- Am. 2011, Act 224, Imd. Eff. Nov. 15, 2011 ;-- Am. 2012, Act 499, Eff. Mar. 31, 2013 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013 ;-- Am. 2014, Act 97, Eff. July 1, 2014 ;-- Am. 2014, Act 412, Eff. Mar. 30, 2015 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017 ;-- Am. 2017, Act 81, Eff. Oct. 9, 2017 ;-- Am. 2017, Act 246, Imd. Eff. Dec. 27, 2017 ;-- Am. 2017, Act 247, Imd. Eff. Dec. 27, 2017 ;-- Am. 2017, Act 249, Imd. Eff. Dec. 27, 2017 ;-- Am. 2018, Act 463, Eff. Mar. 27, 2019 ;-- Am. 2020, Act 136, Imd. Eff. July 8, 2020 ;-- Am. 2020, Act 233, Imd. Eff. Oct. 22, 2020 ;-- Am. 2023, Act 48, Eff. Sept. 27, 2023 ;-- Am. 2023, Act 209, Eff. Feb. 13, 2024

Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€

Popular Name: Act 368

333.16227 Suspension or revocation of license or registration; other sanction or action.

Sec. 16227.

(1) For an offense committed within 2 years after a previous offense of the same kind, a disciplinary subcommittee shall suspend the license or registration for a period of at least 180 days or revoke the license or registration.

(2) Section 16226 and this section do not limit any other sanction or additional action a disciplinary

subcommittee is authorized to impose or take.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2014, Act 97, Eff. July 1, 2014
Popular Name: Act 368

333.16228 Prescription of controlled substance; investigation; ad hoc review panel.

Sec. 16228.

(1) For an investigation involving the prescription of a controlled substance, the department may establish an ad hoc review panel to provide the department with expert information regarding a specific health profession or health specialty or a specific health care treatment or procedure as it relates to the investigation. The department shall establish an ad hoc review panel under this subsection as follows:

(a) The department shall triennially establish a pool of 10 physicians, 5 of whom are allopathic physicians licensed under part 170 and 5 of whom are osteopathic physicians licensed under part 175.

(b) For each ad hoc review panel, the department shall appoint 3 physicians from the pool established under subdivision (a).

(2) The ad hoc review panel shall provide the information described in subsection (1) to the department during the investigation process and before a formal complaint is issued.

History: Add. 1998, Act 423, Eff. Apr. 1, 1999
Popular Name: Act 368

333.16231 Allegation; review; investigation; compliance conference; duties of department following investigation; confidentiality of identity; complaint; failure to respond; conditions applicable to subsection (2)(a); "conflict of interest" defined.

Sec. 16231.

(1) A person or governmental entity that believes that a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 exists may submit an allegation of that fact to the department in writing.

(2) Subject to subsection (3) and section 16221b, if the department determines after reviewing an application or an allegation or a licensee's or registrant's file under section 16211(4) that there is a reasonable basis to believe that a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 exists, 1 of the following applies:

(a) Unless subdivision (b) applies, subject to subsection (10), with the authorization of a panel of at least 3 board members that includes the chair and at least 2 other members of the appropriate board or task force designated by the chair, the department shall investigate the alleged violation. Subject to subsection (10), if the panel fails to grant or deny authorization within 7 days after the board or task force receives a request for authorization, the department shall investigate. If the department believes that immediate jeopardy exists, the director or his or her designee shall authorize an investigation and notify the board chair of that investigation within 2 business days.

(b) If it reviews an allegation in writing under subsection (1) that concerns a licensee or registrant whose record created under section 16211 includes 1 substantiated allegation, or 2 or more written investigated allegations, from 2 or more different individuals or entities, received in the preceding 4 years, the department shall investigate the alleged violation. Authorization by a panel described in subdivision (a) is not required for an investigation by the department under this subdivision.

(3) If a person or governmental entity submits a written allegation under subsection (1) more than 4 years after the date of the incident or activity that is the basis of the alleged violation, the department may investigate the alleged violation in the manner described in subsection (2)(a) or (b), as applicable, but is not required to conduct an investigation under subsection (2)(a) or (b).

(4) If it receives information reported under section 16243(2) that indicates 3 or more malpractice settlements, awards, or judgments against a licensee in a period of 5 consecutive years or 1 or more malpractice settlements, awards, or judgments against a licensee totaling more than $200,000.00 in a period of 5 consecutive years, whether

or not a judgment or award is stayed pending appeal, the department shall investigate.

(5) At any time during an investigation or following the issuance of a complaint, the department may schedule a compliance conference under section 92 of the administrative procedures act of 1969, MCL 24.292. The conference may include the applicant, licensee, registrant, or individual, the applicant's, licensee's, registrant's, or individual's attorney, 1 member of the department's staff, and any other individuals approved by the department. One member of the appropriate board or task force who is not a member of the disciplinary subcommittee with jurisdiction over the matter may attend the conference and provide any assistance that is needed. At the compliance conference, the department shall attempt to reach agreement. If an agreement is reached, the department shall submit a written statement outlining the terms of the agreement, or a stipulation and final order, if applicable, or a request for dismissal to the appropriate disciplinary subcommittee for approval. If the agreement or stipulation and final order or request for dismissal is rejected by the disciplinary subcommittee, or if no agreement is reached, the department shall schedule a hearing before an administrative law judge. A party shall not make a transcript of the compliance conference. All records and documents of a compliance conference held before a complaint is issued are subject to section 16238.

(6) Within 90 days after an investigation is initiated under subsection (2), (3), or (4), the department shall do 1 or more of the following:

(a) Issue a formal complaint.

(b) Conduct a compliance conference under subsection (5).

(c) Issue a summary suspension.

(d) Issue a cease and desist order.

(e) Dismiss the allegation.

(f) Place in the complaint file not more than 1 written extension of not more than 30 days to take action under this subsection.

(7) Unless the person submitting an allegation under subsection (1) otherwise agrees in writing, the department shall keep the identity of a person that submitted the allegation confidential until disciplinary proceedings under this part are initiated against the subject of the allegation and the person that made the allegation is required to testify in the proceedings.

(8) The department shall serve a complaint under section 16192. The department shall include in the complaint a notice that the applicant, licensee, registrant, or individual who is the subject of the complaint has 30 days from the date of receipt to respond in writing to the complaint.

(9) The department shall treat the failure of an applicant, licensee, registrant, or individual to respond to a complaint within the 30-day period set forth in subsection (8) as an admission of the allegations contained in the complaint. The department shall notify the appropriate disciplinary subcommittee of the individual's failure to respond and shall forward a copy of the complaint to that disciplinary subcommittee. The disciplinary subcommittee may then impose an appropriate sanction under this article, article 7, or article 8.

(10) All of the following apply for purposes of subsection (2)(a):

(a) If the chair of the board or task force has a conflict of interest, he or she shall appoint another member of the board or task force as his or her designee and shall not participate in the panel's decision to grant or deny authorization to the department to investigate an individual.

(b) A member of the board or task force shall not participate in the panel's decision to grant or deny authorization to the department to investigate an individual if that member has a conflict of interest. If the chair of the board or task force is notified that a member of the panel has a conflict of interest, the chair shall remove him or her from the panel and appoint another member of the board or task force to serve on the panel.

(c) A member of the board or task force who participates in or is requested to participate in the panel's decision to grant or deny authorization to the department to investigate an individual shall disclose to the department, to the chair of the board or task force, and to the other member of the panel a potential conflict of interest before those participants make that decision.

(11) As used in subsection (10), "conflict of interest" means any of the following:

(a) Has a personal or financial interest in the outcome of the investigation of or the imposition of disciplinary sanctions on the licensee, registrant, or applicant for licensure or registration.

(b) Had a past or has a present business or professional relationship with the individual that the department is investigating or requesting authorization to investigate.

(c) Has given expert testimony in a medical malpractice action against or on behalf of the individual that the department is seeking authorization to investigate.

(d) Any other interest or relationship designated as a conflict of interest in a rule promulgated or order issued under this act.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2010, Act 382, Imd. Eff. Dec. 22, 2010 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013 ;-- Am. 2014, Act 95, Eff. July 1, 2014 ;-- Am. 2017, Act 249, Imd. Eff. Dec. 27, 2017

Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July

1, 1986.â€
Popular Name: Act 368

333.16231a Failure to reach agreement at compliance conference held under MCL 333.16231(4); hearing; conduct; determination by hearings examiner; request for continuance; representation; failure to appear as default; notice; sanction.

Sec. 16231a.

(1) If an agreement is not reached at a compliance conference held under section 16231(4), or if an agreement is reached but is rejected by a disciplinary subcommittee and the parties do not reach a new agreement, the department shall hold a hearing before a hearings examiner employed by or under contract to the department. If an agreement is reached but is rejected by the disciplinary subcommittee, the department shall not hold another compliance conference, but may continue to try and reach a new agreement. The hearings examiner shall conduct the hearing within 60 days after the compliance conference at which an agreement is not reached or after the agreement is rejected by the disciplinary subcommittee, unless a new agreement is reached and approved by the disciplinary subcommittee. One member of the appropriate board or task force who is not a member of the disciplinary subcommittee with jurisdiction over the matter may attend the hearing and provide such assistance as needed.

(2) The hearings examiner shall determine if there are grounds for disciplinary action under section 16221 or if the applicant, licensee, or registrant has violated this article, article 7, or article 8 or the rules promulgated under this article, article 7, or article 8. The hearings examiner shall prepare recommended findings of fact and conclusions of law for transmittal to the appropriate disciplinary subcommittee. The hearings examiner shall not recommend or impose penalties.

(3) The applicant, licensee, or registrant who is the subject of the complaint or the department of attorney general may request and be granted not more than 1 continuance by the hearings examiner for good cause shown.

(4) The applicant, licensee, or registrant may be represented at the hearing by legal counsel. The department shall be represented at the hearing by an assistant attorney general from the department of attorney general. The assistant attorney general shall not be the same individual assigned by the department of attorney general to provide legal counsel to the board or the special assistant attorney general described in section 16237.

(5) Unless a continuance has been granted under subsection (3), failure of an applicant, licensee, or registrant to appear or be represented at a scheduled hearing shall be treated by the hearings examiner as a default and an admission of the allegations contained in the complaint. The hearings examiner shall notify the appropriate disciplinary subcommittee of the individual's failure to appear and forward a copy of the complaint and any other relevant records to the disciplinary subcommittee. The disciplinary subcommittee may then impose an appropriate sanction under any combination of this article, article 7, or article 8.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013
Popular Name: Act 368

333.16232 Hearings; rules.

Sec. 16232.

(1) The department shall provide an opportunity for a hearing in connection with the denial, reclassification, limitation, reinstatement, suspension, or revocation of a license or a proceeding to reprimand, fine, order restitution, or place a licensee on probation.

(2) The department shall provide an opportunity for a hearing in connection with the denial, limitation, suspension, revocation, or reinstatement of a registration or a proceeding to reprimand, fine, order restitution, or place a registrant on probation.

(3) A disciplinary subcommittee shall meet within 60 days after receipt of the recommended findings of fact and conclusions of law from a hearings examiner to impose a penalty.

(4) Only the department shall promulgate rules governing hearings under this article, article 7, or article 8 and related preliminary proceedings.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013 ;-- Am. 2014, Act 95, Eff. July 1, 2014
Popular Name: Act 368

333.16233 Investigation; order to cease and desist; hearing; violation of order; summary suspension of license or registration; notice from federal agency.

Sec. 16233.

(1) The department may conduct an investigation necessary to administer and enforce this article. Investigations may include written, oral, or practical tests of a licensee's or registrant's competency. The department may establish a special paralegal unit to assist the department.

(2) The department may order an individual to cease and desist from a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8.

(3) An individual ordered to cease and desist under subsection (2) is entitled to a hearing before a hearings examiner if the individual files a written request for a hearing within 30 days after the effective date of the cease and desist order. The department shall subsequently present the notice, if any, of the individual's failure to respond to a complaint, or attend or be represented at a hearing as described in sections 16231 and 16231a, or the recommended findings of fact and conclusions of law to the appropriate disciplinary subcommittee to determine whether the order is to remain in effect or be dissolved.

(4) Upon a violation of a cease and desist order issued under subsection (2), the department of attorney general may apply in the circuit court to restrain and enjoin, temporarily or permanently, an individual from further violating the cease and desist order.

(5) After consultation with the chair of the appropriate board or task force or his or her designee, the department may summarily suspend a license or registration if the public health, safety, or welfare requires emergency action in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292. If a licensee or registrant is convicted of a felony; a misdemeanor punishable by imprisonment for a maximum term of 2 years; or a misdemeanor involving the illegal delivery, possession, or use of a controlled substance, the department shall find that the public health, safety, or welfare requires emergency action and, in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292, shall summarily suspend the licensee's license or the registrant's registration. If a licensee or registrant is convicted of a misdemeanor involving the illegal delivery, possession, or use of alcohol that adversely affects the licensee's ability to practice in a safe and competent manner, the department may find that the public health, safety, or welfare requires emergency action and, in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292, may summarily suspend the licensee's license or the registrant's registration.

(6) The department may summarily suspend a pharmacy license if the department has received a notice from the United States food and drug administration or the centers for disease control and prevention that there is an imminent risk to the public health, safety, or welfare and emergency action in accordance with section 92 of the administrative procedures act of 1969, MCL 24.292, is appropriate. A suspension under this subsection remains in effect for the duration of the emergency situation that poses a risk to the public health, safety, or welfare. Notwithstanding any provision of this act to the contrary, the department is not required to conduct an investigation or consult with the board of pharmacy to take emergency action under this subsection.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 1995, Act 196, Imd. Eff. Nov. 22, 1995 ;-- Am. 2010, Act 382, Imd. Eff. Dec. 22, 2010 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013 ;-- Am. 2014, Act 280, Eff. Sept. 30, 2014
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.16234 Conduct of hearings; authority of department.

Sec. 16234.

The department may hold hearings and administer oaths and order testimony to be taken at a hearing or by deposition conducted pursuant to the administrative procedures act of 1969.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16235 Subpoena; prima facie evidence of matters recorded; admissible evidence.

Sec. 16235.

(1) Upon application by the attorney general or a party to a contested case, the circuit court may issue a subpoena requiring a person to appear before a hearings examiner in a contested case or before the department in an investigation and be examined with reference to a matter within the scope of that contested case or investigation and to produce books, papers, or documents pertaining to that contested case or investigation. A subpoena issued under this subsection may require a person to produce all books, papers, and documents pertaining to all of a licensee's or registrant's patients in a health facility on a particular day if the allegation that gave rise to the disciplinary proceeding was made by or pertains to 1 or more of those patients.

(2) A copy of a record of a board or a task force or a disciplinary subcommittee or a hearings examiner certified by a person designated by the director is prima facie evidence of the matters recorded and is admissible as evidence in a proceeding in this state with the same force and effect as if the original were produced.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16236 Mental or physical examination; expense; consent; waiver.

Sec. 16236.

(1) In a hearing or an investigation where mental or physical inability or substance abuse under section 16221 or impairment is alleged, a disciplinary subcommittee or a hearings examiner or the department with the approval of a disciplinary subcommittee may require the applicant, licensee, or registrant to submit to a mental or physical examination conducted by physicians or other appropriate health professionals designated by the disciplinary subcommittee or the department. An examination conducted under this subsection shall be at the expense of the department.

(2) For purposes of this section, an individual licensed or registered under this part who accepts the privilege of practicing in this state, by so practicing or by receiving a license or renewal to practice or by receiving registration, and an individual who applies for licensure or registration, consents to submit to a mental or physical examination under subsection (1) when directed to do so in writing by a disciplinary subcommittee, a hearings examiner, or the department. The individual waives all objections to the admissibility of the testimony or examination reports of the examining health professional on the ground that the testimony or reports constitute privileged communications.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16237 Imposition of penalty by disciplinary subcommittee; review of recommended findings of fact and conclusions of law; assignment of independent special assistant attorney general; additional testimony or evidence; sanction; completion of action; appeal.

Sec. 16237.

(1) In imposing a penalty under section 16232(3), a disciplinary subcommittee shall review the recommended findings of fact and conclusions of law of the hearings examiner.

(2) The department of attorney general may assign an independent special assistant attorney general who is under contract to the department of attorney general and is not a member of the state classified civil service to advise the disciplinary subcommittees on matters of law and provide other legal assistance as necessary. A special assistant attorney general assigned to the disciplinary subcommittees under this subsection shall not be the same individual who represented the department before a hearings examiner under section 16231a(4).

(3) In reviewing the recommended findings of fact and conclusions of law of the hearings examiner and the record of the hearing, a disciplinary subcommittee may request the hearings examiner to take additional testimony or evidence on a specific issue or may revise the recommended findings of fact and conclusions of law as determined necessary by the disciplinary subcommittee, or both. A disciplinary subcommittee shall not conduct its own investigation or take its own additional testimony or evidence under this subsection.

(4) If a disciplinary subcommittee finds that a preponderance of the evidence supports the recommended findings of fact and conclusions of law of the hearings examiner indicating that grounds exist for disciplinary action, the disciplinary subcommittee shall impose an appropriate sanction under any combination of this article, article 7, or article 8. If the disciplinary subcommittee finds that a preponderance of the evidence does not support the findings of fact and conclusions of law of the hearings examiner indicating that grounds exist for disciplinary action, the disciplinary subcommittee shall dismiss the complaint. A disciplinary subcommittee shall report final action taken by it in writing to the appropriate board or task force.

(5) The compliance conference, the hearing before the hearings examiner, and final disciplinary subcommittee action shall be completed within 1 year after the department initiates an investigation under section 16231(2) or (3). The department shall note in its annual report any exceptions to the 1-year requirement.

(6) A final decision of a disciplinary subcommittee rendered after the effective date of the amendatory act that added this section but before January 1, 1995 may be appealed only in the manner provided in sections 103 to 106 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306. A final decision of a disciplinary subcommittee rendered on or after January 1, 1995 may be appealed only to the court of appeals. An appeal filed under this subsection is by right.

History: Add. 1993, Act 87, Eff. Apr. 1, 1994 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013
Compiler's Notes: Former MCL 333.16237, which pertained to imposition of penalty, review, and appeal, was repealed by Act 87 of 1993, Eff. Apr. 1, 1994.
Popular Name: Act 368

333.16238 Confidentiality of information; compliance conference closed to public.

Sec. 16238.

(1) Except as otherwise provided in section 13(1)(u) (i) and (ii) of the freedom of information act, Act No. 442 of the Public Acts of 1976, being section 15.243 of the Michigan Compiled Laws, the information including, but not limited to, patient names, obtained in an investigation or a compliance conference before a complaint is issued, is confidential and shall not be disclosed except to the extent necessary for the proper functioning of a hearings examiner, a disciplinary subcommittee, or the department.

(2) A compliance conference conducted under this part before a complaint is issued shall be closed to the public.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16239 Pamphlet.

Sec. 16239.

Each licensee or registrant who is in private practice shall make available upon request of a patient a pamphlet provided by the department outlining the procedure for filing an allegation with the department under section 16231. The department shall prepare the pamphlet in consultation with appropriate professional associations and

the boards and task forces. The department shall prepare and print the pamphlet in languages that are appropriate to the ethnic composition of the patient population where the pamphlet will be available.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16241 Publishing list of names and addresses of disciplined individuals; distribution of compilation; report of disciplinary actions; report upon summary suspension of license; notice of revocation or suspension to patient or client; notice to employer or hospital; report.

Sec. 16241.

(1) After administrative disciplinary action is final, the department shall publish a list of the names and addresses of disciplined individuals. The department shall indicate on the list that a final administrative disciplinary action is subject to judicial review. The department shall report disciplinary action to the department of community health, the department of insurance and financial services, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association.

(2) Once each calendar year, the department shall transmit to the library of Michigan sufficient copies of a compilation of the lists required under subsection (1) for the immediately preceding 3 calendar years. The library of Michigan shall distribute the compilation to each depository library in this state. The department shall also transmit the compilation to each county clerk in this state once each calendar year.

(3) The department of community health shall report the disciplinary actions to appropriate licensed health facilities and agencies. The department of insurance and financial services shall report the disciplinary actions received from the department to insurance carriers providing professional liability insurance.

(4) In case of a summary suspension of a license under section 16233(5), the department shall report the name and address of the individual whose license has been suspended to the department of community health, the department of insurance and financial services, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association. In case of a summary suspension of a license under section 16233(6), the department shall report the name and address of the pharmacy license that has been suspended to the department of community health, the department of insurance and financial services, the state and federal agencies responsible for fiscal administration of federal health care programs, and the appropriate professional association.

(5) A licensee or registrant whose license or registration is revoked or suspended under this article shall give notice of the revocation or suspension to each patient who contacts the licensee or registrant for professional services during the term of the revocation or suspension. The licensee or registrant may give the notice required under this subsection orally and shall give the notice required under this subsection at the time of contact.

(6) A licensee or registrant whose license or registration is revoked or is suspended for more than 60 days under this article shall notify in writing each patient or client to whom the licensee or registrant rendered professional services in the licensee's or registrant's private practice during the 120 days immediately preceding the date of the final order imposing the revocation or suspension and to each individual who is already scheduled for professional services during the first 120 days after the date of the final order imposing the revocation or suspension. The notice must be on a form provided by the licensee's or registrant's board or task force and state, at a minimum, the name, address, and license or registration number of the licensee or registrant, the fact that his or her license or registration has been revoked or suspended, the effective date of the revocation or suspension, and the term of the revocation or suspension. Each board or task force shall develop a notice form that meets at least the minimum requirements of this subsection. The licensee or registrant shall send the notice to each patient or client to whom the licensee or registrant rendered professional services in the licensee's or registrant's private practice during the 120 days immediately preceding the date of the final order imposing the revocation or suspension within 30 days after the date of the final order imposing the revocation or suspension and shall simultaneously transmit a copy of the notice to the department. The licensee or registrant orally shall notify each individual who contacts the licensee or registrant for professional services during the first 120 days after the date of the final order imposing the revocation or suspension. The licensee or registrant shall also provide a copy of the notice within 10 days after the date of the final order imposing the revocation or suspension to his or her employer, if any, and to each hospital, if any, in which the licensee or registrant is admitted to practice.

(7) A licensee or registrant who is reprimanded, fined, placed on probation, or ordered to pay restitution under this article or an applicant whose application for licensure or registration is denied under this article shall notify his or her employer, if any, and each hospital, if any, in which he or she is admitted to practice, in the same manner as provided for notice of revocation or suspension to an employer or hospital under subsection (6), within 10 days

after the date of the final order imposing the sanction.

(8) The department shall annually report to the legislature and to each board and task force on disciplinary actions taken under this article, article 7, and article 8. The department shall include, at a minimum, all of the following information in the report required under this subsection:

(a) Investigations conducted, complaints issued, and settlements reached by the department, separated out by type of complaint and health profession.

(b) Investigations and complaints closed or dismissed.

(c) Actions taken by each disciplinary subcommittee, separated out by type of complaint, health profession, and final order issued.

(d) Recommendations by boards and task forces.

(e) The number of extensions and delays granted by the department that were in excess of the time limits required under this article for each phase of the disciplinary process, and the types of cases for which the extensions and delays were granted.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 1993, Act 87, Eff. Apr. 1, 1994 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013 ;-- Am. 2014, Act 280, Eff. Sept. 30, 2014
Popular Name: Act 368

333.16243 Reports; reporting name of licensee, amount of damages awarded, or amount of approved settlement.

Sec. 16243.

(1) The department or a disciplinary subcommittee appointed under section 16216 may request and shall receive the following reports:

(a) Information from a licensed health care facility as to disciplinary action taken by it under section 20175.

(b) Information from an insurer providing professional liability insurance as to claims or actions for damages against a licensee; settlements in any amount; a final disposition not resulting in payment on behalf of the insured; or a personal injury claimed to have been caused by an error, omission, or negligence in the performance of the insured professional services. An insurer that receives a request under this subdivision shall submit the information requested directly to the department.

(c) Information from a court in this state as to a felony or misdemeanor conviction of a licensee or registrant or a judgment against a licensee or registrant finding the licensee or registrant negligent in an action for malpractice, whether or not the judgment is appealed.

(d) A report by a licensee or registrant under section 16222.

(e) Information provided by the National Practitioner Data Bank, and reports from the Michigan health care arbitration program.

(f) Reports from any other appropriate source necessary for determination of the competency and safety of the practice of a licensee. Appropriate sources include, but are not limited to, appointed public and private professional review entities and public and private health insurance programs.

(2) Within 10 days after the entry of a judgment against a licensee finding the licensee negligent in an action for malpractice or the approval by a court of a settlement in an action for malpractice, the clerk of the court in which the judgment was entered or the settlement approved shall prepare and immediately forward to the department on a form prescribed by the department a report setting forth the name of the licensee and the amount of damages awarded or the amount of the approved settlement.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2016, Act 103, Eff. Aug. 1, 2016
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.16244 Immunity from civil or criminal liability; physician-patient privilege inapplicable; confidentiality of information; disclosure; prohibition.

Sec. 16244.

(1) A person, including a state or county health professional organization, a committee of the organization, or an employee or officer of the organization furnishing information to, or on behalf of, the organization, acting in good faith who makes a report; assists in originating, investigating, or preparing a report; or assists a board or task force, a disciplinary subcommittee, a hearings examiner, the committee, or the department in carrying out its duties under this article is immune from civil or criminal liability including, but not limited to, liability in a civil action for damages that might otherwise be incurred thereby and is protected under the whistleblowers' protection act, Act No. 469 of the Public Acts of 1980, being sections 15.361 to 15.369 of the Michigan Compiled Laws. A person making or assisting in making a report, or assisting a board or task force, a hearings examiner, the committee, or the department, is presumed to have acted in good faith. The immunity from civil or criminal liability granted under this subsection extends only to acts done pursuant to this article or section 21513(e).

(2) The physician-patient privilege created in section 2157 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2157 of the Michigan Compiled Laws, does not apply in an investigation or proceeding by a board or task force, a disciplinary subcommittee, a hearings examiner, the committee, or the department acting within the scope of its authorization. Unless expressly waived by the individual to whom the information pertains, the information obtained is confidential and shall not be disclosed except to the extent necessary for the proper functioning of a board or task force, a disciplinary subcommittee, the committee, or the department. Except as otherwise provided in this subsection, a person shall not use or disseminate the information except pursuant to a valid court order.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 1993, Act 87, Eff. Apr. 1, 1994
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€In the last sentence of subsection (1), the reference to â€œsection 21513(e)â€ evidently should be to â€œsection 20175 (5) to (7).â€
Popular Name: Act 368

333.16245 Reinstatement of limited, suspended, or revoked license or registration; application; payment; time; hearing; guidelines; fee; criminal history check; permanent revocation.

Sec. 16245.

(1) Except as otherwise provided in this section or section 16245a, an individual whose license is limited, suspended, or revoked under this part may apply to the individual's board or task force for a reinstatement of a revoked or suspended license or reclassification of a limited license pursuant to section 16247 or 16249.

(2) Except as otherwise provided in this section or section 16245a, an individual whose registration is suspended or revoked under this part may apply to the individual's board for a reinstatement of a suspended or revoked registration pursuant to section 16248.

(3) A board or task force shall reinstate a license or registration suspended for grounds stated in section 16221(j) on payment of the installment.

(4) Except as otherwise provided in this section or section 16245a, in case of a revoked license or registration, an applicant shall not apply for reinstatement before the expiration of 3 years after the effective date of the revocation. Except as otherwise provided in this section or section 16245a, in the case of a license or registration that was revoked for a violation of section 16221(b)(vii) or (xiii), a violation of section 16221(c)(iv) consisting of a felony conviction, any other felony conviction involving a controlled substance, or a violation of section 16221(p), an applicant shall not apply for reinstatement before the expiration of 5 years after the effective date of the revocation. The department shall return an application for reinstatement received before the expiration of the applicable time period under this subsection.

(5) The department shall provide an opportunity for a hearing before final rejection of an application for reinstatement unless the application is returned because the applicant is ineligible for reinstatement under subsection (4) or (9).

(6) Based on the recommendation of the disciplinary subcommittee for each health profession, the department shall adopt guidelines to establish specific criteria to be met by an applicant for reinstatement under this article, article 7, or article 8. The criteria may include corrective measures or remedial education as a condition of reinstatement. If a board or task force, in reinstating a license or registration, deviates from the guidelines adopted under this subsection, the board or task force shall state the reason for the deviation on the record.

(7) An individual who seeks reinstatement or reclassification of a license or registration under this section shall

pay the application processing fee as a reinstatement or reclassification fee. If approved for reinstatement or reclassification, the individual shall pay the per year license or registration fee for the applicable license or registration period.

(8) An individual who seeks reinstatement of a revoked or suspended license or reclassification of a limited license under this section shall have a criminal history check conducted in accordance with section 16174 and submit a copy of the results of the criminal history check to the board with the individual's application for reinstatement or reclassification.

(9) An individual whose license is permanently revoked under section 16221 is ineligible for reinstatement. The department shall return an application for reinstatement received if the applicant is ineligible for reinstatement under this subsection.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1988, Act 462, Eff. Sept. 1, 1989 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 1993, Act 87, Eff. Apr. 1, 1994 ;-- Am. 1998, Act 109, Eff. Mar. 23, 1999 ;-- Am. 2006, Act 26, Imd. Eff. Feb. 17, 2006 ;-- Am. 2011, Act 223, Imd. Eff. Nov. 15, 2011 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013 ;-- Am. 2014, Act 413, Eff. Mar. 30, 2015 ;-- Am. 2023, Act 209, Eff. Feb. 13, 2024
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.16245a Permanent revocation.

Sec. 16245a.

(1) In addition to any other penalty, remedy, or sanction under this act, an individual whose license, registration, or authorization to engage in the practice of a health profession has been permanently revoked under this article is permanently ineligible for a license, registration, or authorization to engage in the practice of a health profession under this article by the department or a board or task force.

(2) The department or a board or task force shall not issue a license or registration to an individual whose license, registration, or authorization to engage in the practice of a health profession has been permanently revoked under this article. The department or a board or task force shall not otherwise authorize an individual to engage in the practice of a health profession under this article if that individual's license, registration, or authorization to engage in the practice of a health profession has been permanently revoked under this article.

History: Add. 2014, Act 413, Eff. Mar. 30, 2015
Popular Name: Act 368

333.16247 Reinstatement of license or issuance of limited license; requirements.

Sec. 16247.

(1) Except as otherwise provided in this section, a board or task force may reinstate a license or issue a limited license to an individual whose license has been suspended or revoked under this part if after a hearing the board or task force is satisfied by clear and convincing evidence that the applicant is of good moral character, is able to practice the profession with reasonable skill and safety to patients, has met the criteria in the guidelines adopted under section 16245(6), and should be permitted in the public interest to practice. Pursuant to the guidelines adopted under section 16245(6), as a condition of reinstatement, a disciplinary subcommittee, upon the recommendation of a board or task force, may impose a disciplinary or corrective measure authorized under this part and require that the licensee attend a school or program selected by the board or task force to take designated courses or training to become competent or proficient in those areas of practice in which the board or task force finds the licensee to be deficient. The board or task force may require a statement on a form approved by it from the chief administrator of the school or program attended or the person responsible for the training certifying that the licensee has achieved the required competency or proficiency.

(2) As a condition of reinstatement, a board or task force shall place the licensee on probation for 1 year under conditions set by the board or task force. If a licensee whose license has been revoked cannot apply for reinstatement for 5 years after the date of revocation, then, as a condition of reinstatement, the board or task force shall require the licensee to take and pass the current licensure examination.

(3) A board or task force shall not reinstate a license suspended or revoked for grounds stated in section 16221(b)(i), (iii), or (iv) until it finds that the licensee is mentally or physically able to practice with reasonable skill and safety to patients. The board or task force may require further examination of the licensee, at the licensee's expense, necessary to verify that the licensee is mentally or physically able. The board or task force shall give a licensee described in this section the opportunity at reasonable intervals to demonstrate that he or she can resume competent practice in accordance with standards of acceptable and prevailing practice.

(4) A board or task force shall not reinstate a license or issue a limited license to an individual whose license has been permanently revoked under section 16221.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2014, Act 413, Eff. Mar. 30, 2015
Popular Name: Act 368

333.16248 Reinstatement of registration; requirements.

Sec. 16248.

(1) Except as otherwise provided in this section, a registration board may reinstate a registration revoked or suspended under this part if, after a hearing, the board is satisfied by clear and convincing evidence that the individual is of good moral character, has the education and experience as required in this article, has met the criteria in the guidelines adopted under section 16245(6), and will use the title lawfully and act in accordance with this article.

(2) A board or task force shall not reinstate a registration or issue a limited registration to an individual whose license has been permanently revoked under section 16221.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2014, Act 413, Eff. Mar. 30, 2015
Popular Name: Act 368

333.16249 Reclassification of limited license; requirements.

Sec. 16249.

Except as otherwise provided in section 16245a, a disciplinary subcommittee may reclassify a license limited under this part to alter or remove the limitations if, after a hearing, it is satisfied that the applicant will practice the profession safely and competently within the area of practice and under conditions stipulated by the disciplinary subcommittee, and should be permitted in the public interest to so practice. The disciplinary subcommittee may require the submission of information necessary to make the determination required for reclassification. As a condition of reclassification, the disciplinary subcommittee may require that the licensee take an examination or attend a school or program selected by the disciplinary subcommittee to take designated courses or training to become competent in those areas of practice the disciplinary subcommittee determines necessary for reclassification. The disciplinary subcommittee may require a statement on a form approved by it from the chief administrator of the school or program attended or the person responsible for the training certifying that the licensee has achieved the required competency.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2014, Act 413, Eff. Mar. 30, 2015
Popular Name: Act 368

333.16261 Health profession; prohibited use of insignia, title, letter, word, or phrase.

Sec. 16261.

(1) An individual who is not licensed or registered under this article shall not use an insignia, title, or letter, or a word, letter, or phrase singly or in combination, with or without qualifying words, letters, or phrases, under a circumstance to induce the belief that the person is licensed or registered in this state, is lawfully entitled in this state to engage in the practice of a health profession regulated by this article, or is otherwise in compliance with this article.

(2) An individual shall not announce or hold himself or herself out to the public as limiting his or her practice to, as being specially qualified in, or as giving particular attention to a health profession specialty field for which a board issues a specialty certification or a health profession specialty field license, without first having obtained a specialty certification or a health profession specialty field license.

(3) An individual shall not announce or hold himself or herself out to the public as being able to perform a chiropractic adjustment, chiropractic manipulation, or other chiropractic services or chiropractic opinion, unless the individual is a chiropractor licensed under this article.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002 ;-- Am. 2002, Act 734, Imd. Eff. Dec. 30, 2002
Popular Name: Act 368

333.16263 Repealed. 2006, Act 392, Imd. Eff. Sept. 27, 2006.

Compiler's Notes: The repealed section pertained to restricted use of words, titles, or letters.
Popular Name: Act 368

333.16264 Use of insignia, titles, letters, or phrases granted by authorized educational program or institution or professional organization or association.

Sec. 16264.

Section 16261 shall not limit the right of an individual to use the insignia, titles, letters, or phrases as granted to the individual by an authorized educational program or institution or professional organization or professional association for the purpose of identifying the individual as having completed or attained specific training or as having established a recognized relationship with a health profession regulated by this article, if the individual does not violate the conditions of those sections or of a specific part in this article.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2006, Act 392, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.16265 Use of terms â€œdoctorâ€ or â€œdr.â€.

Sec. 16265.

(1) An individual licensed under this article to engage in the practice of chiropractic, dentistry, medicine, optometry, osteopathic medicine and surgery, podiatric medicine and surgery, psychology, or veterinary medicine shall not use the terms "doctor" or "dr." in any written or printed matter or display without adding thereto "of chiropractic", "of dentistry", "of medicine", "of optometry", "of osteopathic medicine and surgery", "of podiatric medicine and surgery", "of psychology", "of veterinary medicine" or a similar term, respectively.

(2) An individual licensed under part 182 shall not use the terms "doctor" or "dr." without having been granted a doctoral degree in psychology from a regionally or nationally accredited college or university.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.16266 Compliance.

Sec. 16266.

Each licensee who owns or operates, or who owns and operates, a private practice office shall comply with part 138.

History: Add. 1990, Act 21, Eff. June 4, 1990
Popular Name: Act 368

333.16267 HIV infected test subject; compliance reporting requirements; definitions.

Sec. 16267.

(1) A licensee who obtains from a test subject a test result that indicates that the test subject is HIV infected shall comply with the reporting requirements of section 5114.
(2) As used in this section:
(a) "HIV" means human immunodeficiency virus.
(b) "HIV infected" means that term as defined in section 5101.

History: Add. 1988, Act 489, Eff. Mar. 30, 1989
Popular Name: Act 368

333.16273 Artificial insemination services on anonymous basis; use of frozen sperm; testing sperm donor for presence of HIV or antibody to HIV; violation; liability; definitions.

Sec. 16273.

(1) A licensee, except a veterinarian licensed under this article, who provides artificial insemination services on an anonymous basis shall use only frozen sperm, and shall test each potential sperm donor for the presence in the donor of HIV or an antibody to HIV. The donated sperm shall be frozen, stored, and quarantined for not less than 6 months. Before frozen sperm is used for artificial insemination, and not less than 6 months after the date of the donation, the licensee shall take a second blood sample from the donor and have that blood sample tested for HIV or an antibody to HIV. If at any time the test results are positive, the licensee shall not use the sperm of the donor for artificial insemination purposes.
(2) A licensee who violates this section shall be liable in a civil action for damages for the loss or damage resulting from the violation.
(3) As used in this section:
(a) "Anonymous basis" means that the recipient of the sperm does not know the identity of the donor, but the licensee who provides the artificial insemination services or collects the sperm from the donor does know the identity of the donor.
(b) "HIV" means human immunodeficiency virus.

History: Add. 1988, Act 487, Eff. July 1, 1989
Popular Name: Act 368

333.16274 Human cloning; prohibited acts; exception; violation of subsection (1); private right of action; definitions.

Sec. 16274.

(1) A licensee or registrant shall not engage in or attempt to engage in human cloning.
(2) Subsection (1) does not prohibit scientific research or cell-based therapies not specifically prohibited by that subsection.
(3) A licensee or registrant who violates subsection (1) is subject to the administrative penalties prescribed in sections 16221 and 16226 and to the civil penalty prescribed in section 16275.
(4) This section does not give a person a private right of action.
(5) As used in this section:
(a) "Human cloning" means the use of human somatic cell nuclear transfer technology to produce a human embryo.
(b) "Human embryo" means a human egg cell with a full genetic composition capable of differentiating and maturing into a complete human being.
(c) "Human somatic cell" means a cell of a developing or fully developed human being that is not and will not become a sperm or egg cell.
(d) "Human somatic cell nuclear transfer" means transferring the nucleus of a human somatic cell into an egg cell from which the nucleus has been removed or rendered inert.

History: Add. 1998, Act 108, Eff. Mar. 23, 1999
Popular Name: Act 368

333.16275 Human cloning; prohibition; exception; violation; penalty; private right of action; â€œhuman cloningâ€ defined.

Sec. 16275.

(1) A licensee or registrant or other individual shall not engage in or attempt to engage in human cloning.
(2) Subsection (1) does not prohibit scientific research or cell-based therapies not specifically prohibited by that subsection.
(3) A licensee or registrant or other individual who violates subsection (1) is subject to a civil penalty of $10,000,000.00. A fine collected under this subsection shall be distributed in the same manner as penal fines are distributed in this state.
(4) This section does not give a person a private right of action.
(5) As used in this section, "human cloning" means that term as defined in section 16274.

History: Add. 1998, Act 109, Eff. Mar. 23, 1999
Popular Name: Act 368

333.16276 Use of laser for dermatological purposes; supervision of licensed physician required; exceptions; rules; definitions.

Sec. 16276.

(1) A licensee, registrant, or other individual shall not perform any procedure using a laser for dermatological purposes unless the procedure is performed under the supervision of a licensed physician.
(2) A licensee, registrant, or other individual shall not perform any procedure using a laser for dermatological purposes unless the patient has knowledge and consents to the procedure being performed by that licensee, registrant, or individual.

(3) Subsection (1) does not apply to any of the following:

(a) A licensed physician.

(b) A licensed physician's assistant who performs such a procedure in a health care facility.

(c) A certified nurse practitioner who performs such a procedure in a health care facility.

(4) The department may promulgate rules to further prohibit or otherwise restrict the use of lasers for dermatological purposes.

(5) As used in this section:

(a) "Dermatological" means of or relating to the practice of dermatology.

(b) "Practice of dermatology" means the diagnosis and treatment of medically necessary and cosmetic conditions of the skin, hair, and nails by various surgical, reconstructive, cosmetic, and nonsurgical methods.

(c) "Supervision" means the overseeing of or participation in the work of another individual by a health professional licensed under this article in circumstances where at least all of the following conditions exist:

(i) The continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional.

(ii) The availability of a licensed health professional on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual's functions.

(iii) The provision by the licensed supervising health professional of predetermined procedures and drug protocol.

History: Add. 2004, Act 144, Imd. Eff. June 15, 2004
Popular Name: Act 368

333.16276a Medical exfoliation procedures; supervision of licensed physician required; knowledge and consent required.

Sec. 16276a.

(1) A licensee, registrant, or other individual shall not perform a medical exfoliation procedure unless the procedure is performed under the supervision of a licensed physician.

(2) A licensee, registrant, or other individual shall not perform a medical exfoliation procedure unless the patient has knowledge and consents to the procedure being performed by that licensee, registrant, or individual.

(3) Subsection (1) does not apply to a licensed physician.

(4) As used in this section, "medical exfoliation procedure" means a procedure exfoliating the skin cells of an individual in the layers of epidermis below the stratum corneum by dermaplaning or microdermabrasion.

History: Add. 2024, Act 159, Eff. Apr. 2, 2025
Popular Name: Act 368

333.16277 Nonemergency health care; limitation on liability; additional restrictions; exceptions; definitions.

Sec. 16277.

(1) Subject to this section, a licensee or registrant who provides to a patient nonemergency health care that the licensee or registrant is licensed or registered under this article to provide, and who receives no compensation for providing the nonemergency health care, is not liable in a civil action for damages for acts or omissions in providing the nonemergency health care, unless the acts or omissions were the result of gross negligence or willful and wanton misconduct or were intended to injure the patient.

(2) The limitation on liability provided under subsection (1) applies only if the nonemergency health care is provided inside the premises of or as a result of a referral from either of the following:

(a) A health facility organized and operated for the sole purpose of delivering nonemergency health care without receiving compensation.

(b) An entity that is not a health facility and that provides or that coordinates or otherwise arranges for the provision of nonemergency health care to uninsured or underinsured individuals through the voluntary services of or through referrals for the voluntary services of licensees or registrants who receive no compensation for providing the nonemergency health care.

(3) In addition to the restrictions under subsection (2), the limitation on liability provided in subsection (1) does not apply in regard to the nonemergency health care of a patient unless, before the licensee or registrant provides that health care, both of the following occur:

(a) The licensee, registrant, or health facility or entity described in subsection (2) provides the patient with a written disclosure describing the limitation on liability and stating that the health care is free and compensation for the health care will not be requested from any source.

(b) The patient signs an acknowledgment of receipt of the written disclosure.

(4) A health facility, other than a health facility described in subsection (2), that provides financial, in-kind, or other support, not including health care services, to a health facility or entity described in subsection (2) is not liable in a civil action for damages based on nonemergency health care provided by the licensee, registrant, or health facility or entity described in subsection (2).

(5) An entity that is not a health facility, is exempt from taxation under section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, and is organized and operated for the sole purpose of coordinating and providing referrals for nonemergency health care to uninsured or underinsured individuals through licensees or registrants who do not receive compensation for providing the nonemergency health care is not liable in a civil action for damages that arise from the nonemergency health care provided by the licensee, registrant, or health facility or entity described in subsection (2).

(6) This section does not affect the liability of a health facility or entity described in subsection (2) as that liability existed before January 1, 2002.

(7) This section does not apply to a civil action for damages for acts or omissions if the nonemergency health care is surgery that customarily requires more than a local anesthetic.

(8) As used in this section:

(a) "Compensation" means, subject to subdivision (b), receipt of payment or expected receipt of payment from any source, including, but not limited to, receipt of payment or expected receipt of payment directly from a patient, from a patient's parent, guardian, or spouse, or from a public or private health care payment or benefits plan on behalf of the patient, or indirectly in the form of wages, salary, or other valuable consideration under an employment or service agreement.

(b) "Compensation" does not include the receipt by a licensee or registrant who is employed by a health facility other than a health facility described in subsection (2) of wages, salary, or other valuable consideration from the employing health facility, if all of the following apply:

(i) The employing health facility does not expect or require the licensee or registrant to provide health care as described in this section as a condition of employment.

(ii) The employing health facility does not expect or require the licensee or registrant to provide health care as described in this section at a specific health facility described in subsection (2) as a condition of employment.

(iii) The employing health facility does not receive compensation for the licensee's or registrant's provision of health care as described in this section.

(c) "Health facility" means a health facility or agency licensed under article 17.

History: Add. 2001, Act 172, Eff. Jan. 1, 2002 ;-- Am. 2011, Act 94, Imd. Eff. July 15, 2011
Compiler's Notes: Enacting section 1 of Act 172 of 2001 provides:â€œEnacting section 1. Section 16277 of the public health code, 1978 PA 368, MCL 333.16277, as added by this amendatory act, takes effect January 1, 2002 and applies to a cause of action arising on or after that effective date.â€
Popular Name: Act 368

333.16279 Medical treatment, procedure, or examination involving vaginal or anal penetration; requirements; written consent; exceptions; record retention violation; penalties.

Sec. 16279.

(1) Except as otherwise provided in this section, a licensee or registrant shall not perform a medical treatment, procedure, or examination on a patient who is a minor that involves the vaginal or anal penetration of the minor unless all of the following are met:

(a) The medical treatment, procedure, or examination is within the scope of practice of the licensee's or registrant's health profession.

(b) A medical assistant or another licensee or registrant is in the room while the medical treatment, procedure, or examination is performed. The person providing consent under subdivision (c) may waive the requirement described in this subdivision.

(c) Before performing the medical treatment, procedure, or examination, the licensee or registrant obtains the written consent of a parent, guardian, or person in loco parentis of the minor or the consent of any person that is authorized by law to provide consent, on the form created in section 16279a or on another form that includes the same information as the form created in section 16279a. The written consent described in this subdivision may be obtained through electronic means.

(2) A licensee or registrant who obtains the consent required under subsection (1) for a medical treatment, procedure, or examination that requires subsequent visits to perform the same treatment, procedure, or examination on the minor may perform the subsequent treatment, procedure, or examination on the minor without obtaining the consent required under subsection (1) if the subsequent treatment, procedure, or examination is performed within 6 months from the date of obtaining the consent required under subsection (1).

(3) Subsection (1) does not apply in any of the following circumstances:

(a) If the medical treatment, procedure, or examination is necessary and is associated with or incident to a medical emergency. As used in this subdivision, "medical emergency" means a circumstance that, in the licensee's or registrant's good-faith medical judgment, creates an immediate threat of serious risk to the life or physical health of the patient.

(b) If the medical treatment, procedure, or examination primarily relates to the patient's urological, gastrointestinal, reproductive, gynecological, or sexual health.

(c) If the medical treatment, procedure, or examination is performed at a children's advocacy center. As used in this subdivision, "children's advocacy center" means that term as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(d) If the medical treatment, procedure, or examination is performed for purposes of a sexual assault medical forensic examination under section 21527.

(e) If the medical treatment, procedure, or examination is performed for the purpose of measuring the patient's temperature.

(f) If the medical treatment, procedure, or examination is performed for the purpose of rectally administering a drug or medicine.

(4) The consent form required under subsection (1) must be maintained in a patient's medical record for not less than 15 years from the date on which the medical treatment, procedure, or examination was performed.

(5) A person that knowingly violates subsection (1) is guilty of a felony punishable as follows:

(a) For the first offense, by imprisonment for not more than 2 years or a fine of not more than $5,000.00, or both.

(b) For a second or subsequent offense, by imprisonment for not more than 5 years or a fine of not more than $10,000.00, or both.

(6) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law that is committed by that person while violating this section.

(7) A court may order a term of imprisonment imposed for a violation of this section to be served consecutively to a term of imprisonment imposed for any other crime, including any other violation of law arising out of the same transaction as the violation of this section.

History: Add. 2023, Act 60, Eff. Oct. 10, 2023
Popular Name: Act 368

333.16279a Standardized consent form for medical treatment, procedure, or examination involving vaginal or anal penetration of a minor under MCL 333.16279.

Sec. 16279a.

(1) The department shall create and may periodically update a standardized consent form to be used by a licensee or registrant who provides a medical treatment, procedure, or examination to a minor under section 16279. The department shall use generally accepted standards of medical practice in determining the information to be included on the form. The form must include at least all of the following statements:

(a) That gloves are generally used for a medical treatment, procedure, or examination involving vaginal or anal

penetration.

(b) That the person providing consent under section 16279 has the right to request information on whether there is a reasonable alternative to the treatment, procedure, or examination that does not consist of anal or vaginal penetration.

(c) That the person providing consent under section 16279 has the right to request a clear explanation of the nature of the treatment, procedure, or examination.

(d) That the person providing consent under section 16279 may request that gloves be used during the treatment, procedure, or examination.

(e) That a licensee or registrant generally cannot be alone in the room with the patient while the treatment, procedure, or examination is being performed.

(2) The department shall make the form publicly available on its website.

History: Add. 2023, Act 60, Eff. Oct. 10, 2023
Popular Name: Act 368

333.16281 Initiation of child abuse or neglect investigations; notice to licensee or registrant; request for child's medical records and information; release of medical records and information; inapplicable privileges; immunity from liability; exception; duties imposed by other statutes.

Sec. 16281.

(1) If there is a compelling need for records or information to determine whether child abuse or child neglect has occurred or to take action to protect a child where there may be a substantial risk of harm, a family independence agency caseworker or administrator directly involved in the child abuse or neglect investigation shall notify a licensee or registrant that a child abuse or neglect investigation has been initiated regarding a child who has received services from the licensee or registrant and shall request in writing the child's medical records and information that are pertinent to that investigation. Upon receipt of this notification and request, the licensee or registrant shall review all of the child's medical records and information in the licensee's or registrant's possession to determine if there are medical records or information that is pertinent to that investigation. Within 14 days after receipt of a request made under this subsection, the licensee or registrant shall release those pertinent medical records and information to the caseworker or administrator directly involved in the child abuse or neglect investigation.

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

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

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

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

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

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

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

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

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

History: Add. 1998, Act 496, Eff. Mar. 1, 1999
Popular Name: Act 368

333.16282 Patient treated for opioid-related overdose to be provided with information on substance use disorder services.

Sec. 16282.

A licensee or registrant who treats a patient for an opioid-related overdose shall provide information to the patient on substance use disorder services. As used in this section, "substance use disorder services" means that term as defined in section 6230.

History: Add. 2017, Act 250, Eff. Mar. 27, 2018
Popular Name: Act 368

333.16283 Definitions.

Sec. 16283.

As used in this section and sections 16284 to 16288:
(a) "Health professional" means an individual who is engaging in the practice of a health profession.
(b) "Prescriber" means that term as defined in section 17708.
(c) "Telehealth" means the use of electronic information and telecommunication technologies to support or promote long-distance clinical health care, patient and professional health-related education, public health, or health administration. Telehealth may include, but is not limited to, telemedicine. As used in this subdivision, "telemedicine" means that term as defined in section 3476 of the insurance code of 1956, 1956 PA 218, MCL 500.3476.
(d) "Telehealth service" means a health care service that is provided through telehealth.

History: Add. 2016, Act 359, Eff. Mar. 29, 2017
Popular Name: Act 368

333.16284 Telehealth service; consent required; exception.

Sec. 16284.

Except as otherwise provided in this section, a health professional shall not provide a telehealth service without directly or indirectly obtaining consent for treatment. This section does not apply to a health professional who is providing a telehealth service to an inmate who is under the jurisdiction of the department of corrections and is housed in a correctional facility.

History: Add. 2016, Act 359, Eff. Mar. 29, 2017
Popular Name: Act 368

333.16285 Telehealth service; prescribing patient with drug; conditions; requirements.

Sec. 16285.

(1) A health professional who is providing a telehealth service to a patient may prescribe the patient a drug if both of the following are met:
(a) The health professional is a prescriber who is acting within the scope of his or her practice in prescribing the

drug.

(b) If the health professional is prescribing a drug that is a controlled substance, the health professional meets the requirements of this act applicable to that health professional for prescribing a controlled substance.

(2) A health professional who prescribes a drug under subsection (1) shall comply with both of the following:

(a) If the health professional considers it medically necessary, he or she shall provide the patient with a referral for other health care services that are geographically accessible to the patient, including, but not limited to, emergency services.

(b) After providing a telehealth service, the health professional, or a health professional who is acting under the delegation of the delegating health professional, shall make himself or herself available to provide follow-up health care services to the patient or refer the patient to another health professional for follow-up health care services.

History: Add. 2016, Act 359, Eff. Mar. 29, 2017 ;-- Am. 2017, Act 22, Imd. Eff. Mar. 31, 2017
Popular Name: Act 368

333.16286 Telehealth service; restrictions or conditions; findings by disciplinary subcommittee.

Sec. 16286.

In a manner consistent with this part and in addition to the provisions set forth in this part, a disciplinary subcommittee may place restrictions or conditions on a health professional's ability to provide a telehealth service if the disciplinary subcommittee finds that the health professional has violated section 16284 or 16285.

History: Add. 2016, Act 359, Eff. Mar. 29, 2017
Popular Name: Act 368

333.16287 Rules.

Sec. 16287.

The department, in consultation with a board, shall promulgate rules to implement sections 16284 and 16285.

History: Add. 2016, Act 359, Eff. Mar. 29, 2017 ;-- Am. 2017, Act 22, Imd. Eff. Mar. 31, 2017
Popular Name: Act 368

333.16288 MCL 333.16284 to 333.16287; limitations.

Sec. 16288.

Sections 16284 to 16287 do not do any of the following:

(a) Require new or additional third party reimbursement for health care services rendered by a health professional through telehealth.

(b) Limit the provision of a health care service otherwise allowed by law.

(c) Authorize a health care service otherwise prohibited by law.

History: Add. 2016, Act 359, Eff. Mar. 29, 2017
Popular Name: Act 368

333.16291 Violation; injunctive relief; criminal proceeding; prosecution.

Sec. 16291.

(1) Upon a violation of this article or of a rule or order of a board or task force, a disciplinary subcommittee, or the department, the circuit court for the county in which the violation occurs may restrain and enjoin a person from the violation. A board or task force, a disciplinary subcommittee, or the department shall seek injunctive relief through the attorney general or the prosecuting attorney of the county in which the violation occurs. This proceeding may be in addition to and is not in lieu of a criminal prosecution or proceeding as to a license or registration.

(2) The department, a board or task force, or a disciplinary subcommittee, may request the attorney general or prosecuting attorney to prosecute a person violating this article. The attorney general or the prosecuting attorney may prosecute a violation of this article.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16294 Unlawful conduct; felony.

Sec. 16294.

Except as provided in section 16215, an individual who practices or holds himself or herself out as practicing a health profession regulated by this article without a license or registration or under a suspended, revoked, lapsed, void, or fraudulently obtained license or registration, or outside the provisions of a limited license or registration, or who uses as his or her own the license or registration of another person, is guilty of a felony.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16296 Unlawful conduct; misdemeanor; penalties.

Sec. 16296.

A person who uses a title regulated by this article without a registration or under a suspended, revoked, or fraudulently obtained registration, or who uses as his or her own the registration of another person is guilty of a misdemeanor, punishable as follows:

(a) For the first offense, by imprisonment for not more than 90 days or a fine of $100.00, or both.

(b) For the second or subsequent offense, by imprisonment for not more than 1 year or a fine of not less than $300.00 nor more than $1,000.00, or both.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2020, Act 375, Eff. Mar. 24, 2021
Popular Name: Act 368

333.16299 Violation as misdemeanor; penalties; exception.

Sec. 16299.

(1) Except as otherwise provided in subsection (2), a person who violates or aids or abets another in a violation

of this article, other than those matters described in sections 16294 and 16296, is guilty of a misdemeanor punishable as follows:

(a) For the first offense, by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.

(b) For the second or subsequent offense, by imprisonment for not more than 6 months or a fine of not less than $200.00 nor more than $500.00, or both.

(2) Subsection (1) does not apply to a violation of section 17015, 17015a, or 17515 or to a violation of this article for which another criminal penalty is specifically prescribed.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2002, Act 685, Eff. Mar. 31, 2003 ;-- Am. 2012, Act 499, Eff. Mar. 31, 2013 ;-- Am. 2020, Act 375, Eff. Mar. 24, 2021 ;-- Am. 2023, Act 209, Eff. Feb. 13, 2024
Popular Name: Act 368

333.16301 Fees generally.

Sec. 16301.

(1) Fees for licenses and registrations issued and other services performed by the department shall be as prescribed in this article.

(2) This article does not prohibit a person who has a contract with the department or any other person providing direct services from collecting fees directly from an applicant, registrant, or licensee.

(3) If the department terminates a contract with a person who has been administering a licensing or registration examination to applicants for licensure or registration in a specific profession and the department itself begins to administer the examination, the department shall not charge an applicant a fee greater than the fee charged under the terminated contract unless the examination fee for that profession is increased under this article.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979 ;-- Am. 1979, Act 161, Imd. Eff. Dec. 10, 1979 ;-- Am. 1988, Act 462, Eff. Sept. 1, 1989 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16303 Nonrefundable application processing fee; examination or inspection fee; fee for initial license or registration period; waiver of fee; definitions.

Sec. 16303.

(1) Except as otherwise provided in this section, each application for a license or registration must be accompanied by a nonrefundable application processing fee, and the department may also require that the application be accompanied by a fee for a required examination or inspection or the fee for the initial license or registration period.

(2) The department shall waive the fee for an initial license or initial registration that is otherwise required under this article, or an application processing fee charged by the department for an initial license or initial registration, if the applicant meets 1 of the following requirements:

(a) Is actively serving in the armed forces or the uniformed services.

(b) Is an individual who served in the armed forces or uniformed services and he or she provides to the department a form DD214, form DD215, or any other form that is satisfactory to the department that demonstrates he or she was separated from that service with an honorable character of service or under honorable conditions (general) character of service.

(c) Provides proof acceptable to the department that he or she is a dependent of a member of the armed forces, a member of the uniformed services, or a veteran.

(3) As used in this section:

(a) "Dependent" means a spouse, surviving spouse, child who is under 26 years of age, or surviving child who is under 26 years of age.

(b) "Veteran" means that term as defined in section 1 of 1965 PA 190, MCL 35.61.

History: Add. 1988, Act 462, Eff. Sept. 1, 1989 ;-- Am. 2021, Act 25, Eff. Sept. 7, 2021
Popular Name: Act 368

333.16305 Examination fee; forfeiture; reexamination fee.

Sec. 16305.

(1) An individual who is required to take an examination shall pay an examination fee.
(2) An individual who is scheduled for examination or reexamination and who fails to appear at the examination shall forfeit the examination fee.
(3) An individual who fails all or part of an examination may be reexamined, if eligible, after paying for the complete examination or such parts of the examination as must be repeated.

History: Add. 1988, Act 462, Eff. Sept. 1, 1989
Popular Name: Act 368

333.16307 License and registration fees; completion of requirements for licensure or registration; forfeiture of fees; effect of void application.

Sec. 16307.

(1) A person who has completed the requirements for a license or registration or who seeks to renew a license or registration shall not be issued a license or registration until the person has paid the license or registration fee.
(2) License and registration fees shall be prescribed on a per-year basis. If licenses and registrations are established on a biennial basis, the fee required shall be twice the per-year amount prescribed. If licenses or registrations are established on a triennial basis, the fee required shall be 3 times the per-year amount prescribed.
(3) Except as otherwise provided in this act or rules promulgated under this act, all requirements for licensure or registration shall be completed within 2 years after receipt of the application by the department. If the requirements are not completed within the 2-year period, the fees paid shall be forfeited to the department and the application shall be void. An individual whose application has been determined void under this subsection shall submit a new application and fees and shall meet the standards in effect on the date of receipt of the new application.

History: Add. 1988, Act 462, Eff. Sept. 1, 1989
Popular Name: Act 368

333.16311 Repealed. 1988, Act 462, Eff. Sept. 1, 1989.

Compiler's Notes: The repealed section pertained to delinquent charges.
Popular Name: Act 368

333.16315 Health professions regulatory fund; nurse professional fund; pain management education and controlled substances electronic monitoring and antidiversion fund.

Sec. 16315.

(1) The health professions regulatory fund is established in the state treasury. Except as otherwise provided in this section, the state treasurer shall credit the fees collected under sections 16319 to 16349 to the health professions regulatory fund. Except as otherwise provided in this section, the money in the health professions regulatory fund shall be expended only as provided in subsection (5).

(2) The state treasurer shall direct the investment of the health professions regulatory fund. Interest and earnings from health professions regulatory fund investment shall be credited to the health professions regulatory fund.

(3) The unencumbered balance in the health professions regulatory fund at the close of the fiscal year shall remain in the health professions regulatory fund and shall not revert to the general fund.

(4) The health professions regulatory fund may receive gifts and devises and other money as provided by law.

(5) The department shall use the health professions regulatory fund to carry out its powers and duties under this article, article 7, and article 8, including, but not limited to, reimbursing the department of attorney general for the reasonable cost of services provided to the department under this article, article 7, and article 8.

(6) The nurse professional fund is established in the state treasury. Of the money that is attributable to per-year license fees collected under section 16327, the state treasurer shall credit $8.00 of each individual annual license fee collected to the nurse professional fund. The money in the nurse professional fund shall be expended only as provided in subsection (9).

(7) The state treasurer shall direct the investment of the nurse professional fund, and shall credit interest and earnings from the investment to the nurse professional fund. The nurse professional fund may receive gifts and devises and other money as provided by law.

(8) The unencumbered balance in the nurse professional fund at the close of the fiscal year shall remain in the nurse professional fund and shall not revert to the general fund.

(9) The department of health and human services shall use the nurse professional fund each fiscal year only as follows:

(a) To promote safe patient care in all nursing practice environments.

(b) To advance the safe practice of the nursing profession.

(c) To ensure a continuous supply of high-quality direct care nurses, nursing faculty, and nursing education programs.

(d) To operate a nursing scholarship program.

(10) The pain management education and controlled substances electronic monitoring and antidiversion fund is established in the state treasury.

(11) The state treasurer shall direct the investment of the pain management education and controlled substances electronic monitoring and antidiversion fund. Interest and earnings from investment of the pain management education and controlled substances electronic monitoring and antidiversion fund shall be credited to the pain management education and controlled substances electronic monitoring and antidiversion fund.

(12) The unencumbered balance in the pain management education and controlled substances electronic monitoring and antidiversion fund at the close of the fiscal year shall remain in the pain management education and controlled substances electronic monitoring and antidiversion fund and shall not revert to the general fund. The pain management education and controlled substances electronic monitoring and antidiversion fund may receive gifts and devises and other money as provided by law. Twenty dollars of the license fee received by the department under section 16319 shall be deposited with the state treasurer to the credit of the pain management education and controlled substances electronic monitoring and antidiversion fund. The department shall use the pain management education and controlled substances electronic monitoring and antidiversion fund only in connection with programs relating to pain management education for health professionals, preventing the diversion of controlled substances, and development and maintenance of the electronic monitoring system for controlled substances data required by section 7333a.

(13) For the fiscal year ending September 30, 2020 only, $10,000,000.00 of the money in the health professions regulatory fund is transferred to and must be deposited into the general fund.

History: Add. 1993, Act 138, Eff. Apr. 1, 1994 ;-- Am. 2001, Act 232, Imd. Eff. Jan. 3, 2002 ;-- Am. 2007, Act 166, Imd. Eff. Dec. 21, 2007 ;-- Am. 2009, Act 216, Imd. Eff. Jan. 4, 2010 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013 ;-- Am. 2020, Act 169, Imd. Eff. Oct. 1, 2020

Compiler's Notes: Former MCL 333.16315, which pertained to health professions regulatory fund and nurse professional fund, was repealed by Acts 87 and 138 of 1993, Eff. Apr. 1, 1994.

Popular Name: Act 368

333.16317 Fees; limitation on increase; schedule.

Sec. 16317.

(1) Except as otherwise provided in section 16343, at the beginning of each state fiscal year, the department may increase the fees collected under sections 16319 to 16349 by a percentage amount equal to not more than the average percentage wage and salary increase granted for that fiscal year to classified civil service employees employed by the department.

(2) If the department increases fees under subsection (1), the increase is effective for that fiscal year. The department shall use the increased fees as the basis for calculating fee increases in subsequent fiscal years.

(3) By August 1 of each year the department shall provide to the director of the department of management and budget and the chairpersons of the appropriations committees of the senate and house of representatives a complete schedule of fees to be collected under sections 16319 to 16349 for the following fiscal year.

History: Add. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2022, Act 254, Eff. Mar. 29, 2023
Popular Name: Act 368

333.16319 Fees.

Sec. 16319.

Fees for a person licensed or seeking licensure to engage in manufacturing, distributing, prescribing, dispensing, or conducting research with controlled substances under part 73 are as follows:

(a) Application processing fee $ 10.00

(b) License fee, per year 75.00.

History: Add. 1993, Act 138, Eff. Apr. 1, 1994
Compiler's Notes: Former MCL 333.16319, which pertained to licensure and fees for manufacturing, distributing, prescribing, or dispensing controlled substances or conducting research, was repealed by Act 138 of 1993, Eff. Apr. 1, 1994.
Popular Name: Act 368

333.16321 Chiropractor; fees.

Sec. 16321.

Fees for a person licensed or seeking licensure to engage in the practice of chiropractic under part 164 are as follows:

(a) Application processing fee $ 20.00

(b) Examination fees:

(i) Complete examination 100.00

(ii) Per part 15.00

(iii) Examination review 20.00

(c) License fee, per year 90.00

(d) Temporary license 25.00

(e) Limited license, per year 25.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994

333.16322 Practice of acupuncture; license fees.

Sec. 16322.

(1) Until the effective date of the rules promulgated under section 16525 regarding licensure, fees for an individual who is registered or seeking registration as an acupuncturist under part 165 are as follows:

(a) Application processing fee $ 75.00

(b) Registration fee, per year $ 200.00

(2) Beginning on the effective date of the rules promulgated under section 16525 regarding licensure, fees for an individual who is licensed or seeking licensure to engage in the practice of acupuncture under part 165 are as follows:

(a) Application processing fee $ 75.00

(b) License fee, per year $ 200.00

(c) Limited license, per year $ 200.00

(d) Temporary license fee $ 200.00

History: Add. 2006, Act 30, Imd. Eff. July 1, 2006 ;-- Am. 2019, Act 140, Eff. Mar. 4, 2020 ;-- Am. 2020, Act 136, Imd. Eff. July 8, 2020
Popular Name: Act 368

333.16323 Dentist, dental assistant, dental hygienist, dental therapist; fees.

Sec. 16323.

Fees for an individual licensed or seeking licensure to practice as a dentist, dental assistant, dental hygienist, or dental therapist under part 166 are as follows:

(a) Application processing fees:	
(i) Dentist	$ 20.00
(ii) Dental assistant	10.00
(iii) Dental hygienist	15.00
(iv) Dental therapist	15.00
(v) Health profession specialty field license for a dentist	20.00
(b) Examination fees:	
(i) Dental assistant's examination, complete	70.00
(ii) Dental assistant's examination, per part	35.00
(iii) Dental therapist	300.00
(iv) Dentist's health profession specialty field license examination, complete	300.00
(v) Dentist's health profession specialty field license examination, per part	100.00
(c) License fees, per year:	
(i) Dentist	90.00
(ii) Dental assistant	10.00
(iii) Dental hygienist	20.00
(iv) Dental therapist	40.00
(v) Dentist's health profession specialty field license	15.00
(d) Temporary license fees:	
(i) Dentist	20.00

(ii) Dental assistant	5.00
(iii) Dental hygienist	10.00
(iv) Dental therapist	15.00
(e) Limited license fee, per year:	
(i) Dentist	25.00
(ii) Dental assistant	5.00
(iii) Dental hygienist	10.00
(iv) Dental therapist	15.00
(f) Examination review fees:	
(i) Dental preclinical or dentist's health profession specialty field license	50.00
(ii) Dental assistant	20.00
(iii) Dental therapist	50.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002 ;-- Am. 2014, Act 305, Eff. Jan. 9, 2015 ;-- Am. 2018, Act 463, Eff. Mar. 27, 2019 ;-- Am. 2021, Act 25, Eff. Sept. 7, 2021
Popular Name: Act 368

333.16323a Fees.

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

History: Add. 2004, Act 97, Imd. Eff. May 7, 2004
Popular Name: Act 368

333.16324 Marriage and family therapy; license fees.

Sec. 16324.

Fees for a person licensed or seeking licensure to engage in the practice of marriage and family therapy under part 169 are as follows:

(a) Application processing fee	$ 25.00
(b) License fee, per year	50.00

History: Add. 1995, Act 126, Eff. Jan. 1, 1996
Popular Name: Act 368

333.16325 Medicine; fees.

Sec. 16325.

Fees for a person licensed or seeking licensure to engage in the practice of medicine under part 170 are as follows:

(a) Application processing fee	$ 50.00
(b) License fee, per year	90.00
(c) Temporary license fee	25.00
(d) Limited license fee, per year	30.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16326 Practice of midwifery; license fees.

Sec. 16326.

(1) Fees for an individual who is licensed or seeking licensure to engage in the practice of midwifery under part 171 are as follows:

(a) Subject to subsection (2) and section 17116(4), application processing fee	$ 450.00
(b) License fee, per year	200.00
(c) Temporary license fee, per year	200.00

(2) After the department receives more than a total of $23,000.00 in application processing fees from individuals who are licensed or seeking licensure to engage in the practice of midwifery under part 171, the application processing fee is reduced to $75.00.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.16327 Registered professional nurse, licensed practical nurse, or trained attendant; fees.

Sec. 16327.

Fees for an individual who is licensed or seeking licensure to practice nursing as a registered professional nurse, a licensed practical nurse, or a trained attendant under part 172 are as follows:

(a) Application processing fee	$ 75.00
(b) License fee, per year	60.00
(c) Temporary license	10.00
(d) Limited license, per year	10.00
(e) Specialty certification for registered nurse:	
(i) Application processing fee	24.00
(ii) Specialty certification, per year	14.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2009, Act 216, Imd. Eff. Jan. 4, 2010 ;-- Am. 2016, Act 499, Eff. Apr. 9, 2017
Popular Name: Act 368

333.16328 Nursing home administrator; licensing fees.

Sec. 16328.

Fees for a person licensed or seeking licensure as a nursing home administrator under part 173 are as follows:

(a) Application processing fee	$ 15.00
(b) Examination fees:	
(i) Complete examination	120.00
(ii) National examination	95.00
(iii) State supplemental examination	50.00
(c) Examination review	25.00
(d) License fee, per year	60.00
(e) Temporary license	25.00

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001
Popular Name: Act 368

333.16329 Optometry; fees.

Sec. 16329.

Fees for a person licensed or seeking licensure to engage in the practice of optometry under part 174 are as follows:

(a) Application processing fee	$ 20.00
(b) Examination fees:	
(i) Complete examination	200.00
(ii) Examination, per part	50.00
(iii) Examination review	20.00
(c) License fee, per year	90.00
(d) Limited license, per year	25.00
(e) Temporary license	25.00
(f) Certification to administer diagnostic pharmaceutical agents or to administer and prescribe therapeutic pharmaceutical agents:	
(i) Application processing fee	$ 20.00
(ii) Until the expiration of 10 years after the effective date of the amendatory act that added section 17435, certification to administer diagnostic pharmaceutical agents	55.00
(iii) Certification to administer diagnostic pharmaceutical agents and to administer and prescribe therapeutic pharmaceutical agents	55.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 1994, Act 384, Eff. Mar 30, 1995
Popular Name: Act 368

333.16331 Osteopathic medicine and surgery; fees.

Sec. 16331.

Fees for a person licensed or seeking licensure to engage in the practice of osteopathic medicine and surgery under part 175 are as follows:

(a) Application processing fee	$ 50.00
(b) License fee, per year	90.00
(c) Temporary license fee	25.00
(d) Limited license fee, per year	30.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16333 Pharmacy or other practices regulated under part 177; fees.

Sec. 16333.

Fees for a person licensed or seeking licensure to engage in the practice of pharmacy or other practices regulated under part 177 are as follows:

(a) Application processing fees:	
(i) Pharmacist	$ 75.00
(ii) Pharmacy	75.00
(iii) Drug control	75.00
(iv) Manufacturer, wholesale distributor, or wholesale distributor-broker	75.00
(v) Pharmacy technician	75.00
(b) Examination fees:	
Jurisprudence examination	30.00
(c) License fees, per year:	
(i) Pharmacist	30.00
(ii) Pharmacy	50.00
(iii) Drug control	15.00
(iv) Manufacturer, wholesale distributor, or wholesale distributor-broker	25.00
(v) Pharmacy technician	30.00
(d) Temporary license for pharmacist	25.00
(e) Limited license for pharmacist, per year	15.00
(f) Temporary license for pharmacy technician	15.00
(g) Limited license for pharmacy technician, per year	10.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2014, Act 285, Eff. Dec. 22, 2014 ;-- Am. 2020, Act 142, Imd. Eff. July 14, 2020
Popular Name: Act 368

333.16334 Massage therapist; fees.

Sec. 16334.

Fees for an individual licensed or seeking licensure as a massage therapist under part 179A are as follows:

(a) Application processing fee	$ 20.00
(b) License fee, per year	75.00

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009
Popular Name: Act 368

333.16335 Physical therapy; fees.

Sec. 16335.

Fees for a person licensed or seeking licensure to engage in the practice of physical therapy or practice as a physical therapist assistant under part 178 are as follows:

(a) Application processing fee	$ 20.00
(b) Examination fees:	
Jurisprudence examination only	25.00
(c) License fee, per year	90.00
(d) Limited license, per year	25.00

History: Add. 1993, Act 80, Eff. Apr. 1, 1994 ;-- Am. 2009, Act 55, Imd. Eff. June 25, 2009
Popular Name: Act 368

333.16336 Athletic trainer; fees.

Sec. 16336.

Fees for a person licensed or seeking licensure as an athletic trainer under part 179 are as follows:

(a) Application processing fee	$ 75.00.
(b) License fee, per year	$ 100.00.

History: Add. 2006, Act 54, Eff. Dec. 1, 2006 ;-- Am. 2015, Act 166, Eff. Jan. 26, 2016
Compiler's Notes: Act 368

333.16337 Physician's assistant; fees.

Sec. 16337.

Fees for a person licensed or seeking licensure to engage in practice as a physician's assistant under part 170, part 175, or part 180 are as follows:

(a) Application processing fee	$ 30.00
(b) License fee, per year	50.00
(c) Temporary license	35.00
(d) Limited license, per year	25.00

History: Add. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 161, Eff. Nov. 26, 2006
Popular Name: Act 368

333.16338 Genetic counselor; fees.

Sec. 16338.

(1) Fees for an individual licensed or seeking licensure to engage in the practice of genetic counseling under part 170 are as follows:

(a) Subject to subsection (2), application processing fee	$ 230.00
(b) License fee, per year	54.00
(c) Temporary license fee, per year	50.00

(2) After the department determines that it has recouped its up-front costs from application processing fees from individuals who are licensed or seeking licensure to engage in the practice of genetic counseling under part 170, the application processing fee is reduced to $75.00.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019
Popular Name: Act 368

333.16339 Podiatric medicine; fees.

Sec. 16339.

Fees for a person licensed or seeking licensure to engage in the practice of podiatric medicine and surgery under part 180 are as follows:

(a) Application processing fee	$ 20.00
(b) License fee, per year	90.00
(c) Temporary license	15.00
(d) Limited license, per year	25.00

History: Add. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16341 Counseling; fees.

Sec. 16341.

Fees for a person licensed or seeking licensure to engage in the practice of counseling under part 181 are as follows:

(a) Application processing fee	$ 50.00
(b) Examination fee	100.00
(c) License fee, per year	55.00
(d) Limited license fee, per year	25.00

History: Add. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16342 Speech-language pathologist; fees.

Sec. 16342.

Fees for an individual licensed or seeking licensure as a speech-language pathologist under part 176 are as follows:

(a) Application processing fee $ 20.00

(b) License fee, per year 75.00.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009
Popular Name: Act 368

333.16343 Psychologist; fees; increase limitations.

Sec. 16343.

(1) Fees for a person licensed or seeking licensure to engage in the practice of psychology under part 182 are as follows:

(a) Application processing fee $ 50.00

(b) License fee, per year:

(i) Full doctoral 90.00

(ii) Limited doctoral 30.00

(iii) Masters limited 60.00

(iv) Temporary limited 15.00

(c) Limited license, per year 40.00

(d) Temporary license 15.00

(e) Examination review fee 20.00

(2) At the beginning of each state fiscal year, the department may increase the fees collected under this section by an amount no greater than the psychology interjurisdictional compact renewal amount to reasonably enforce the psychology interjurisdictional compact, to implement the psychology interjurisdictional compact, to pay a fee imposed by the psychology interjurisdictional compact commission, or to implement a needed change to an information technology system because of this state's membership in the psychology interjurisdictional compact.

(3) If the department increases fees under subsection (2), the increase is effective for that fiscal year and the increase applies only to those participating in the psychology interjurisdictional compact. The department shall use the increased fees as a basis for calculating fee increases in subsequent fiscal years.

(4) As used in this section, "psychology interjurisdictional compact" means the psychology interjurisdictional compact as enacted in section 16190.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2022, Act 254, Eff. Mar. 29, 2023
Popular Name: Act 368

333.16343a Practice of applied behavior analysis or assistant behavior analyst; fees.

Sec. 16343a.

Fees for an individual who is licensed or seeking licensure to engage in the practice of applied behavior analysis,

or to engage in practice as an assistant behavior analyst, under part 182A are as follows:

(a) Application processing fee $ 75.00

(b) License fee, per year 90.00

History: Add. 2016, Act 403, Eff. Apr. 3, 2017
Popular Name: Act 368

333.16344 Respiratory therapist; license fees.

Sec. 16344.

Fees for an individual licensed or seeking licensure as a respiratory therapist under part 187 are as follows:

(a) Application processing fee $ 20.00

(b) License fee, per year 75.00

(c) Temporary license 75.00

History: Add. 2004, Act 3, Eff. July 1, 2004
Popular Name: Act 368

333.16345 Occupational therapist or occupational therapist assistant; fees.

Sec. 16345.

Fees for an individual licensed or seeking licensure to engage in the practice of occupational therapy, or to engage in practice as an occupational therapy assistant, under part 183 are as follows:

(a) Application processing fee $ 20.00

(b) License fee, per year 75.00.

History: Add. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2008, Act 523, Imd. Eff. Jan. 13, 2009
Popular Name: Act 368

333.16346 Dietitian nutritionist; fees.

Sec. 16346.

Fees for an individual licensed or seeking licensure as a dietitian nutritionist under part 183A are as follows:

(a) Application processing fee $ 75.00

(b) License fee, per year $ 55.00

(c) Temporary license fee $ 55.00

History: Add. 2024, Act 39, Eff. Apr. 2, 2025
Compiler's Notes: Former MCL 333.16346, which pertained to licensure fees for dietitian or nutritionist, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.

Popular Name: Act 368

333.16347 Sanitarian; fees.

Sec. 16347.

Fees for a person registered or seeking registration as a registered sanitarian under part 184 are as follows:

(a) Application processing fee	$ 20.00
(b) Registration fee, per year	50.00
(c) Limited registration, per year	10.00
(d) Temporary registration	15.00

History: Add. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.16348 Licensed bachelor's social worker, licensed master's social worker, or registered social service technician; fees.

Sec. 16348.

Fees for a person licensed or seeking licensure as a licensed bachelor's social worker or a licensed master's social worker or a person registered or seeking registration as a registered social service technician under part 185 are as follows:

(a) Application processing fee	$ 15.00
(b) License fee, per year:	
(i) Licensed bachelor's social worker	25.00
(ii) Licensed master's social worker	25.00
(c) Registration fee, per year, for a social service technician	25.00

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000 ;-- Am. 2004, Act 61, Eff. July 1, 2005
Popular Name: Act 368

333.16349 Veterinary medicine or veterinary technician; fees.

Sec. 16349.

Fees for a person licensed or seeking licensure to engage in the practice of veterinary medicine or licensed or seeking licensure to practice as a veterinary technician under part 188 are as follows:

(a) Application processing fees:	
(i) Veterinarian	$ 25.00
(ii) Veterinary technician	15.00
(b) Examination fees:	
(i) Veterinary technician, complete	130.00
(ii) Veterinary technician, per part	65.00
(c) License fees, per year:	

(i) Veterinarian	70.00
(ii) Veterinary technician	40.00
(d) Temporary license fees:	
(i) Veterinarian	25.00
(ii) Veterinary technician	10.00
(e) Limited licenses, per year:	
(i) Veterinarian	25.00
(ii) Veterinary technician	10.00
(f) Examination review	20.00

History: Add. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2016, Act 49, Eff. June 13, 2016
Compiler's Notes: Enacting section 1 of Act 49 of 2016 provides:"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."
Popular Name: Act 368

Part 164
CHIROPRACTIC

333.16401 Definitions; scope; principles of construction.

Sec. 16401.

(1) As used in this part:

(a) "Chiropractor", "chiropractic physician", "doctor of chiropractic", or "d.c." means an individual licensed under this article to engage in the practice of chiropractic.

(b) "Dislocation" means complete disruption in the normal relationship of 2 bones forming a joint resulting in no contact of the articular surfaces. A dislocation does not include a subluxation.

(c) "Joint dysfunction" means a joint that is impaired so that it does not function properly.

(d) "Musculoskeletal system" means the system of muscles, tendons, ligaments, bones, joints, and associated tissues that moves the body and maintains its form.

(e) "Practice of chiropractic" means that discipline within the healing arts that deals with the human nervous system and the musculoskeletal system and their interrelationship with other body systems. Practice of chiropractic includes the following:

(i) The diagnosis of human conditions and disorders of the human musculoskeletal and nervous systems as they relate to subluxations, misalignments, and joint dysfunctions. These diagnoses shall be for the purpose of detecting and correcting those conditions and disorders or offering advice to seek treatment from other health professionals in order to restore and maintain health.

(ii) The evaluation of conditions or symptoms related to subluxations, misalignments, and joint dysfunction through any of the following:

(A) Physical examination.

(B) The taking and reviewing of patient health information.

(C) The performance, ordering, or use of tests. The performance, ordering, or use of tests in the practice of chiropractic is regulated by rules promulgated under section 16423.

(D) The performance, ordering, or use of x-ray.

(E) The performance, ordering, or use of tests that were allowed under section 16423 as of December 1, 2009.

(iii) The chiropractic adjustment of subluxations, misalignments, and joint dysfunction and the treatment of related bones and tissues for the establishment of neural integrity and structural stability.

(iv) The use of physical measures, analytical instruments, nutritional advice, rehabilitative exercise, and adjustment apparatus regulated by rules promulgated under section 16423.

(2) The practice of chiropractic does not include any of the following:

(a) The performance of any procedure that cuts or punctures the skin.

(b) The dispensing or prescribing of drugs or medicine.

(c) Except for diagnostic purposes only, the use of x-ray.

(d) The performance of an invasive procedure involving a body orifice or cavity unless allowed by rules promulgated under section 16423 and limited to examinations involving the ears, nose, and throat.

(e) The treatment of fractures or dislocations.

(f) The performance or ordering of non-x-ray diagnostic imaging tests that were not allowed under section 16423 as of December 1, 2009.

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

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2002, Act 734, Imd. Eff. Dec. 30, 2002 ;-- Am. 2009, Act 223, Imd. Eff. Jan. 5, 2010
Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Popular Name: Act 368

333.16411 Practice of chiropractic; license or authorization required; scope and effect of act; use of words, titles, or letters.

Sec. 16411.

(1) An individual shall not engage in the practice of chiropractic, including, but not limited to, performing a chiropractic adjustment, chiropractic manipulation, or other chiropractic services or chiropractic opinion, unless licensed, or otherwise authorized by a chiropractor, under this article.

(2) 2002 PA 734 is intended to codify existing law and to clarify and cure any misinterpretation of the operation of sections 16261, 16401, and 16411 since December 30, 2002.

(3) 2002 PA 734 is not intended to affect the authority of a veterinarian to delegate certain functions as provided by law.

(4) 2002 PA 734 does not affect the scope of practice of medicine or osteopathic medicine and surgery provided for in parts 170 and 175. 2002 PA 734 does not amend the scope of practice of physical therapy provided for in part 178.

(5) 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 part to use the following terms and in a way prescribed in this part: "chiropractic", "doctor of chiropractic", "chiropractor", "d.c.", and "chiropractic physician".

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2002, Act 734, Imd. Eff. Dec. 30, 2002 ;-- Am. 2006, Act 396, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.16412 Limited license; qualifications; suspension; duration; nonrenewable.

Sec. 16412.

(1) An individual shall not engage in the practice of chiropractic as part of his or her chiropractic education without a limited license to practice under this part.

(2) A limited license for practice as part of chiropractic education shall require that the individual has successfully completed 2 years of education in a college of arts and sciences and 2 years, 4 semesters, or 6 quarter terms in a chiropractic college approved by the board. An individual granted a limited license may engage in the practice of chiropractic only under the supervision of a licensed chiropractor.

(3) The limited license is valid for not more than 6 months and is nonrenewable.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.16421 Michigan board of chiropractic; creation; membership; terms.

Sec. 16421.

(1) The Michigan board of chiropractic is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 chiropractors and 4 public members.

(2) The terms of office of individual members of the board created under subsection (1), except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term will expire.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 396, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.16423 Performance and ordering of tests and approval of analytical instruments and adjustment apparatus; rules; criteria; standards.

Sec. 16423.

(1) The department, in consultation with the board, shall promulgate rules to establish criteria for the performance and ordering of tests and the approval of analytical instruments and adjustment apparatus to be used for the purpose of examining and treating patients for subluxations and misalignments that produce nerve interference or joint dysfunction. The criteria established shall be substantially equivalent to nationally recognized standards in the profession for the performance and ordering of tests and the use and operation of the instruments and apparatus. The board may approve types and makes of analytical instruments and adjustment apparatus that meet these criteria.

(2) An individual shall not perform or order tests or use analytical instruments or adjustment apparatus that do not meet nationally recognized standards or that are not approved by the board.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2009, Act 221, Imd. Eff. Jan. 5, 2010
Popular Name: Act 368
Admin Rule: R 338.2201 et seq. and R 338.12001 et seq. of the Michigan Administrative Code.

333.16429 Standards of practice for services involving vaginal or anal penetration; promulgation of rules.

Sec. 16429.

The department may promulgate rules that provide guidance to licensees on generally accepted standards of practice for services involving vaginal or anal penetration, including internal pelvic floor treatments. If the department promulgates rules under this section, the department shall consult with appropriate professional associations and other interested stakeholders.

History: Add. 2023, Act 62, Eff. Oct. 10, 2023
Popular Name: Act 368

333.16431 Renewal of license; educational conferences; completion of hours or courses in pain and symptom management; rules.

Sec. 16431.

(1) Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 2 years immediately preceding the application for

renewal the applicant has attended not less than two 2-day educational conferences approved by the board, in subjects related to the practice of chiropractic and designed to further educate licensees.

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

(3) The department, in consultation with the board, shall promulgate rules requiring each applicant for license renewal to complete as part of the educational conferences required under subsection (1) an appropriate number of hours or courses concerning the provisions of section 16401(1) that were added by the amendatory act that added this subsection.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986 ;-- Am. 1994, Act 234, Imd. Eff. June 30, 1994 ;-- Am. 2009, Act 221, Imd. Eff. Jan. 5, 2010
Popular Name: Act 368

PART 165.
Acupuncture

333.16501 Definitions.

Sec. 16501.

(1) As used in this part:

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

(b) "Acupuncture" means the insertion and manipulation of needles through the surface of the human body. Acupuncture includes, but is not limited to, laser acupuncture, electroacupuncture, pricking therapy, dry needling, and intramuscular stimulation.

(c) "Acupuncturist" means an individual who is licensed under this part to engage in the practice of acupuncture.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(u) "Registered acupuncturist" means an individual who is registered or otherwise authorized under this part

before the effective date of the rules promulgated under section 16525 regarding licensure.

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

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

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

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

History: Add. 2006, Act 30, Eff. July 1, 2006 ;-- Am. 2019, Act 140, Eff. Mar. 4, 2020 ;-- Am. 2020, Act 136, Imd. Eff. July 8, 2020
Popular Name: Act 368

333.16511 Use of words, titles, or letters; license required.

Sec. 16511.

(1) Except as otherwise provided in this part, beginning on the effective date of rules promulgated under section 16525 regarding licensure, an individual shall not use the words, titles, or letters "acupuncturist", "certified acupuncturist", "registered acupuncturist", "licensed acupuncturist", "L.Ac.", or a similar word or initial that indicates that the individual is an acupuncturist, unless he or she is authorized under this part to use the terms and in a way prescribed in this part. However, for a period not to exceed 36 months from the effective date of the rules promulgated under section 16525 regarding licensure, a registered acupuncturist may, without a license under this part, continue to use the titles "acupuncturist", "registered acupuncturist", or "certified acupuncturist" and engage in the practice of acupuncture.

(2) Until the effective date of the rules promulgated under section 16525 regarding licensure, an individual shall not use the words, titles, or letters "acupuncturist", "certified acupuncturist", or "registered acupuncturist", or a combination of the words, titles, or letters, with or without qualifying words or phrases, unless he or she is registered under this part.

(3) Until the effective date of the rules promulgated under section 16525 regarding licensure, neither of the following is subject to this part:

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

(b) An individual who is certified by the National Acupuncture Detoxification Association.

History: Add. 2006, Act 30, Eff. July 1, 2006 ;-- Am. 2006, Act 397, Imd. Eff. Sept. 27, 2006 ;-- Am. 2019, Act 140, Eff. Mar. 4, 2020 ;-- Am. 2020, Act 136, Imd. Eff. July 8, 2020
Popular Name: Act 368

333.16513 Practice of acupuncture; license required; use of titles; exemptions.

Sec. 16513.

(1) Beginning on the effective date of rules promulgated under section 16525 regarding licensure, an individual shall not engage in the practice of acupuncture unless he or she is licensed under this part or is otherwise authorized under this article.

(2) In addition to the exemptions from licensure under section 16171, beginning on the effective date of the rules promulgated under section 16525 regarding licensure, this part does not apply to any of the following:

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

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

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

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

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

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

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

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

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

History: Add. 2019, Act 140, Eff. Mar. 4, 2020 ;-- Am. 2020, Act 136, Imd. Eff. July 8, 2020
Popular Name: Act 368

333.16515 Requirements for licensure; limited license; issuance.

Sec. 16515.

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

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

(a) He or she is a registered acupuncturist.

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

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

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

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

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

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

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

History: Add. 2019, Act 140, Eff. Mar. 4, 2020
Popular Name: Act 368

333.16517 Rules; license renewal; continuing education requirements.

Sec. 16517.

(1) Notwithstanding the requirements of part 161, the department, in consultation with the board, shall promulgate rules requiring a licensee seeking renewal of a license to furnish the department with satisfactory evidence that during the license cycle immediately preceding the application for renewal the licensee has attended continuing education courses or programs approved by the board in subjects related to the practice of acupuncture and designed to further educate licensees. An individual is considered to have completed the continuing education requirements described in this subsection if the department determines that the individual has met the continuing education standards of the National Certification Commission for Acupuncture and Oriental Medicine or equivalent standards as determined by the board.

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

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

History: Add. 2019, Act 140, Eff. Mar. 4, 2020
Popular Name: Act 368

333.16521 Michigan board of acupuncture; creation; membership; terms of office.

Sec. 16521.

(1) The Michigan board of acupuncture is created in the department and consists of the following 13 voting members, each of whom must meet the requirements of part 161:

(a) Seven acupuncturists or, until 36 months after the effective date of the rules promulgated under section 16525, 7 registered acupuncturists. The members appointed under this subdivision must meet the requirements of section 16135.

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

(c) Three public members.

(2) The terms of office of individual members of the board created under this part, except those appointed to fill vacancies, expire on June 30 of the year in which the term expires pursuant to section 16122.

History: Add. 2006, Act 30, Eff. July 1, 2006 ;-- Am. 2006, Act 397, Imd. Eff. Sept. 27, 2006 ;-- Am. 2010, Act 79, Imd. Eff. May 20, 2010 ;-- Am. 2019, Act 140, Eff. Mar. 4, 2020 ;-- Am. 2020, Act 136, Imd. Eff. July 8, 2020
Compiler's Notes: For the reduction of the membership of the Michigan board of acupuncture from 13 to 11 and revision of the membership qualifications, see E.R.O. No. 2024-2, compiled at MCL 16.735.
Popular Name: Act 368

333.16525 Rules.

Sec. 16525.

(1) By March 4, 2021, the department, in consultation with the board, shall promulgate rules that establish the minimum standards for licensure as an acupuncturist and implement the licensure program for the practice of acupuncture. In promulgating rules for purposes of section 16515(1), the department, in consultation with the board, may adopt by reference the professional standards issued by a certified program that is recognized by the National Commission for Certifying Agencies. In promulgating rules for purposes of section 16515(2)(b), the department, in consultation with the board, shall consider whether an applicant has completed systematic acupuncture education that includes live lectures, demonstrations, and supervised clinical training specific to acupuncture.

(2) The rules in effect on March 3, 2020 regarding the registration of acupuncturists remain in effect until the effective date of the rules promulgated under subsection (1).

History: Add. 2006, Act 30, Eff. July 1, 2006 ;-- Am. 2019, Act 140, Eff. Mar. 4, 2020 ;-- Am. 2020, Act 136, Imd. Eff. July 8, 2020
Popular Name: Act 368

333.16529 Third party reimbursement or worker's compensation benefits.

Sec. 16529.

This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services by an individual registered or licensed as an acupuncturist under this part.

History: Add. 2006, Act 30, Eff. July 1, 2006 ;-- Am. 2019, Act 140, Eff. Mar. 4, 2020 ;-- Am. 2020, Act 136, Imd. Eff. July 8, 2020
Popular Name: Act 368

Part 166
DENTISTRY

333.16601 Definitions; principles of construction.

Sec. 16601.

(1) As used in this part:

(a) "Assignment" means that a dentist has designated a patient of record on whom services are to be performed and has described the procedures to be performed. The dentist need not be physically present in the office or in the treatment room at the time the procedures are being performed.

(b) "Dental laboratory" means a dental workroom that is operated as a part of a dental office or otherwise, by a person, other than a dentist, who is engaged in, or holds himself, herself, or itself out as being directly or indirectly engaged in, constructing, repairing, or altering prosthetic dentures, bridges, orthodontic or other appliances, or

structures to be used as substitutes for or as a part of human teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(c) "Dentist" means an individual who is licensed under this article to engage in the practice of dentistry.

(d) "Practice of dentistry" means the diagnosis, treatment, prescription, or operation for a disease, pain, deformity, deficiency, injury, or physical condition of the human tooth, teeth, alveolar process, gums or jaws, or their dependent tissues, or an offer, undertaking, attempt to do, or holding oneself out as able to do any of these acts.

(e) "Practice as a dental assistant" means assistance in the clinical practice of dentistry based on formal education, specialized knowledge, and skill at the assignment and under the supervision of a dentist.

(f) "Practice as a dental hygienist" means practice at the assignment of a dentist in that specific area of dentistry based on specialized knowledge, formal education, and skill with particular emphasis on preventive services and oral health education.

(g) "Practice as a dental therapist" means providing any of the care and services, and performing any of the duties, described in section 16656.

(2) In addition, 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.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2018, Act 463, Eff. Mar. 27, 2019
Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Popular Name: Act 368

333.16605 Use of words, titles, or letters.

Sec. 16605.

The following words, titles, or letters, or a combination of any of those words, titles, or letters, with or without qualifying words or phrases, are restricted in use only to those individuals who are authorized under this part to use the following terms and in a way prescribed in this part:

(a) "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", "dental therapist", "r.d.a.", "d.d.s.", "d.m.d.", "r.d.h.", and "d.t.".

(b) Beginning September 1, 2022, "oral and maxillofacial radiologist", "dental anesthesiologist", "oral medicine doctor", "public health dentist", and "orofacial pain specialist".

History: Add. 2006, Act 429, Imd. Eff. Oct. 5, 2006 ;-- Am. 2018, Act 463, Eff. Mar. 27, 2019 ;-- Am. 2021, Act 12, Eff. Mar. 30, 2022
Popular Name: Act 368

333.16608 Health profession specialty field license; qualifications; renewal; reference as specialty certification.

Sec. 16608.

(1) The board may issue a health profession specialty field license to a dentist who has advanced training beyond that required for initial licensure and who has demonstrated competency through examination or other evaluative processes in 1 or more of the following health profession specialty fields:

(a) Prosthodontics, endodontics, oral and maxillofacial surgery, orthodontics, pediatric dentistry, periodontics, or oral pathology.

(b) Beginning September 1, 2022, oral medicine, orofacial pain, dental public health, oral and maxillofacial radiology, or dental anesthesiology.

(2) A dentist who held a health profession specialty certification in 1 or more of the health profession specialty fields listed in subsection (1)(a) on December 23, 2002 is considered to hold a health profession specialty field license on that date in each of those health profession specialty fields and may obtain renewal of each health profession specialty field license on the expiration date of the specialty certification.

(3) A health profession specialty field license issued under this section must be renewed concurrently with the license to practice dentistry.

(4) This section does not prohibit a dentist who has not been issued a health profession specialty field license under this section from performing services in 1 or more of the health profession specialty fields listed in subsection (1).

(5) For purposes of the administration of the general rules of the board in the Michigan Administrative Code, a reference to specialty certification is a reference to a health profession specialty field license.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1987, Act 182, Imd. Eff. Nov. 30, 1987 ;-- Am. 1990, Act 216, Imd. Eff. Oct. 8, 1990 ;-- Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002 ;-- Am. 2021, Act 12, Eff. Mar. 30, 2022
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.16611 Dentist, dental hygienist, or dental assistant; license or authorization required; deep scaling, root planing, and removal of calcareous deposits; qualifications for dental hygienist licensure; administration of intraoral block and infiltration anesthesia by dental hygienist; administration of local anesthesia or nitrous oxide analgesia; requirements; additional delegation of procedures; third party reimbursement; practice guidelines; definitions.

Sec. 16611.

(1) An individual shall not engage in the practice of dentistry, the practice as a dental hygienist, or the practice as a dental assistant unless he or she is licensed or otherwise authorized by this article.

(2) Deep scaling, root planing, and the removal of calcareous deposits may only be performed by an individual licensed or otherwise authorized by this article as a dental hygienist or a dentist.

(3) The department shall not issue a dental hygienist's license to an individual unless the individual has graduated from a school or college for dental hygienists whose dental hygiene program is accredited by the commission on dental accreditation of the American dental association and approved by the department. The school or college must be accredited by a regional accrediting agency for colleges, universities, or institutions of higher education that is recognized by the United States department of education and approved by the department and must conduct a curriculum consisting of not less than 2 academic years for dental hygiene graduation with courses at the appropriate level to enable matriculation into a more advanced academic degree program.

(4) Upon delegation by a dentist under section 16215 and under the direct supervision of a dentist, a dental hygienist may administer intraoral block and infiltration anesthesia or nitrous oxide analgesia, or both, to a patient 18 years of age or older, if the following criteria are met:

(a) The dental hygienist has successfully completed a course in the administration of local anesthesia or nitrous oxide analgesia, or both, as applicable, offered by a dental or dental hygiene program accredited by the commission on dental accreditation of the American dental association and approved by the department. A course described in this subdivision involving local anesthesia administration must contain a minimum of 15 hours didactic instruction and 14 hours of clinical experience. A course described in this subdivision involving nitrous oxide analgesia administration must contain a minimum of 4 hours of didactic instruction and 4 hours of clinical experience. The courses of instruction shall include content in all of the following:

(i) In the case of local anesthesia, the following:

(A) Theory of pain control.

(B) Selection of pain control modalities.

(C) Anatomy.

(D) Neurophysiology.

(E) Pharmacology of local anesthetics.

(F) Pharmacology of vasoconstrictors.

(G) Psychological aspects of pain control.

(H) Systemic complications.

(I) Techniques of maxillary anesthesia.

(J) Techniques of mandibular anesthesia.

(K) Infection control.

(L) Local anesthesia medical emergencies.

(ii) In the case of nitrous oxide analgesia, the following:

(A) Nitrous oxide analgesia medical emergency techniques.

(B) Pharmacology of nitrous oxide.

(C) Nitrous oxide techniques.

(D) If such a course is available, selection of pain control modalities.

(b) The dental hygienist has successfully completed a state or regional board-administered written examination on either or both of the following within 18 months of completion of the course work required under subdivision (a):

(i) Local anesthesia.

(ii) Nitrous oxide analgesia, if such an examination is available and approved by the department.

(c) The dental hygienist maintains and can show evidence of current certification in basic or advanced cardiac life support in compliance with R 338.11701 of the Michigan administrative code.

(5) Application for certification in the administration of local anesthesia and nitrous oxide under subsection (4) is at the discretion of each individual dental hygienist. The department or its designee shall issue a certificate to a dental hygienist who meets the criteria in subsection (4) following the initial completion of the requirements to administer local anesthesia or nitrous oxide, or both. The certificate is not subject to renewal but is part of the dental hygienist's permanent record and must be prominently displayed in the dental hygienist's principal place of employment. The fee for the person seeking certification for completion of the requirements of subsection (4) is $10.00.

(6) Monitoring and assisting the administration of nitrous oxide analgesia is at the discretion of each individual registered dental assistant who fulfills the applicable conditions imposed in subsection (7).

(7) In addition to the rules promulgated by the department under this part, upon delegation by a dentist under section 16215 and under the direct supervision of a dentist, a registered dental assistant may assist and monitor the administration of nitrous oxide analgesia by the dentist or dental hygienist if the registered dental assistant has successfully completed a course in the assisting and monitoring of the administration of nitrous oxide analgesia offered by a dental or dental assisting program accredited by the commission on dental accreditation of the American dental association and approved by the department. The course must contain a minimum of 5 hours of didactic instruction and include content in all of the following:

(a) Nitrous oxide analgesia medical emergencies techniques.

(b) Pharmacology of nitrous oxide.

(c) Nitrous oxide techniques.

(8) The ability of a dental hygienist to administer nitrous oxide analgesia under this section is limited to circumstances in which the dental hygienist may administer not more than 50% nitrous oxide.

(9) In the assisting by a registered dental assistant otherwise qualified under this section in the administration of nitrous oxide analgesia, the nitrous oxide levels must be preset by the dentist or dental hygienist and shall not be adjusted by the registered dental assistant except in the case of an emergency, in which circumstances the registered dental assistant may turn off the nitrous oxide and administer 100% oxygen.

(10) Upon assignment by a dentist, a dental hygienist may take an impression for orthodontic appliances, mouth guards, bite splints, and bleaching trays.

(11) In addition to the rules promulgated by the department under this part, upon delegation by a dentist under section 16215 and under the direct supervision of a dentist, a registered dental assistant may place, condense, and carve amalgam restorations and take final impressions for indirect restorations if the registered dental assistant has successfully completed a course offered by a dental or dental assisting program accredited by the commission on dental accreditation of the American dental association and approved by the department. For taking final impressions and placing, condensing, and carving amalgam restorations, the registered dental assistant shall have completed a course with a minimum of 20 hours' didactic instruction followed by a comprehensive clinical experience of sufficient duration that validates clinical competence through a criterion based assessment instrument.

(12) In addition to the rules promulgated by the department under this part, upon delegation by a dentist under section 16215 and under the general supervision of a dentist, a registered dental assistant may perform the following intraoral dental procedures if the registered dental assistant has successfully completed a course meeting the standards described in subsection (13) offered by a dental or dental assisting program accredited by the commission on dental accreditation of the American dental association and approved by the department:

(a) Performing pulp vitality testing.

(b) Placing and removing matrices and wedges.

(c) Applying cavity liners and bases.

(d) Placing and packing nonepinephrine retraction cords.

(e) Applying desensitizing agents.

(f) Taking an impression for orthodontic appliances, mouth guards, bite splints, and bleaching trays.

(g) Drying endodontic canals with absorbent points.
(h) Etching and placing adhesives prior to placement of orthodontic brackets.
(13) The course in subsection (12) that involves those intraoral procedures described in subsection (12) must contain a minimum of 10 hours of didactic and clinical instruction.
(14) This section does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as a dental assistant or as a dental hygienist under this article.
(15) Within 30 days after the effective date of the amendatory act that added this subsection, the board shall develop patient safety and equipment practice guidelines for dentists delegating to dental hygienists and dental assistants the administration of nitrous oxide analgesia under this part. The practice guidelines shall be consistent with national recommendations.
(16) As used in this section:
(a) "Assisting" means setting up equipment and placing the face mask. Assisting does not include titrating and turning on or off equipment.
(b) "Direct supervision" means that a dentist complies with all of the following:
(i) Designates a patient of record upon whom the procedures are to be performed and describes the procedures to be performed.
(ii) Examines the patient before prescribing the procedures to be performed and upon completion of the procedures.
(iii) Is physically present in the office at the time the procedures are being performed.
(c) "General supervision" means that a dentist complies with all of the following:
(i) Designates a patient of record upon whom services are to be performed.
(ii) Is physically present in the office at the time the procedures are being performed.
(d) "Monitoring" means observing levels and reporting to the dentist or dental hygienist.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2002, Act 423, Imd. Eff. June 5, 2002 ;-- Am. 2003, Act 35, Imd. Eff. July 3, 2003 ;-- Am. 2004, Act 30, Imd. Eff. Mar. 22, 2004
Popular Name: Act 368

333.16620 Terms of office.

Sec. 16620.

The terms of office of individual members of the board and task force created under this part, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term will expire.

History: Add. 2006, Act 429, Imd. Eff. Oct. 5, 2006
Popular Name: Act 368

333.16621 Michigan board of dentistry; creation; appointment and qualifications of members; meetings; voting.

Sec. 16621.

(1) The Michigan board of dentistry is created in the department. Subject to subsection (2), the board consists of the following 20 voting members, each of whom must meet the requirements of part 161:
(a) Nine dentists. Subject to subsection (4), 1 or more of the dentists appointed under this subdivision may have a health profession specialty certification issued under section 16608.
(b) Subject to subsection (4), 2 dentists who have been issued a health profession specialty certification under section 16608.
(c) Four dental hygienists.
(d) Two dental assistants.
(e) Three public members.
(2) Beginning 5 years after the effective date of the 2018 amendatory act that amended this subsection, the board

must include 1 dental therapist, bringing the total number of voting members on the board to 21. The dental therapists appointed under this subsection must each meet the requirements of part 161.

(3) The board meeting dates and times must be concurred in by a vote of not less than 13 board members.

(4) One member of the board shall be a dentist who is a dental school faculty member.

(5) A board member who is licensed to practice as a dental hygienist, a dental assistant, or a dental therapist votes as an equal member of the board in all matters except those designated in section 16148(1) or (2) that apply only to dentists and not to dental hygienists, dental assistants, or dental therapists.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1998, Act 436, Imd. Eff. Dec. 30, 1998 ;-- Am. 2000, Act 160, Imd. Eff. June 14, 2000 ;-- Am. 2002, Act 590, Imd. Eff. Oct. 17, 2002 ;-- Am. 2018, Act 463, Eff. Mar. 27, 2019
Popular Name: Act 368

333.16624 Task force; creation; purpose; membership.

Sec. 16624.

A task force to advise the board is created for health profession specialty fields certified under this part. The task force shall consist of the following 9 members, who shall meet the requirements of part 161; 1 dentist who is not a specialist, 1 prosthodontist, 1 endodontist, 1 oral and maxillofacial surgeon, 1 orthodontist, 1 pediatric dentist, 1 periodontist, 1 oral pathologist, and 1 public member. The oral pathologist shall be certified as a dentist specializing in oral pathology by the board not later than 1 year after the effective date of the amendatory act that added an oral pathologist to the task force. If the oral pathologist is not so certified, his or her term shall terminate at the end of that year.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1987, Act 182, Imd. Eff. Nov. 30, 1987 ;-- Am. 1990, Act 216, Imd. Eff. Oct. 8, 1990
Compiler's Notes: For transfer of powers and duties of the dental specialty task force from the department of commerce to the director of the department of consumer and industry services, and the abolishment of the dental specialty task force, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.
Popular Name: Act 368

333.16625 Rules as to dental hygienist or dental assistant; dental hygiene services performed under supervision of dentist as part of program for dentally underserved program; designation of grantee health agency; requirements; notification; advisory committee; definitions.

Sec. 16625.

(1) The board may promulgate rules to prohibit or otherwise restrict the assignment of procedures to a dental hygienist or a dental assistant if the board determines that the assignment constitutes or may constitute a danger to the health, safety, or welfare of the patient or the public.

(2) Notwithstanding section 16601(1)(f) or the rules promulgated under subsection (1), a dental hygienist may perform dental hygiene services under the supervision of a dentist as part of a program for dentally underserved populations in this state conducted by a local, state, or federal grantee health agency for patients who are not assigned by a dentist. The director of community health shall designate a person as a grantee health agency for a 2-year period if the person applies to the department of community health on a form provided by the department of community health and meets all of the following requirements:

(a) Is a public or nonprofit entity, or a school or nursing home, that administers a program of dental care to a dentally underserved population.

(b) Employs or contracts with at least 1 dentist or 1 dental hygienist.

(c) Submits a program overview indicating the approximate population to be served, the method by which the service is to be provided, the procedures for program oversight and direction, and the name and license number of the dentist and dental hygienist, if applicable, who are performing services under the program.

(3) Within 10 business days after the department approves an application and designates a grantee health agency under subsection (2), the department shall notify the board of the designation in writing or make the information electronically available.

(4) The director of community health may appoint an advisory committee to assist the director of community health in designating grantee health agencies under subsection (2). If the director of community health does appoint an advisory committee under this subsection, the director of community health shall include on the advisory committee, at a minimum, a representative from the Michigan dental hygienist association or its successor organization and a representative from the Michigan dental association or its successor organization.

(5) As used in this section:

(a) "Nursing home" means that term as defined under section 20109.

(b) "School" means a public or private elementary or secondary institution of learning for any grade from kindergarten to 12.

(c) "Supervision" means the overseeing of or participation in the work of any other individual by a health professional licensed under this article in circumstances in which 1 or more of the following exist:

(i) The continuous availability of direct communication in person or by radio, telephone, or telecommunication between the supervised individual and a licensed health professional.

(ii) The availability of a licensed health professional on a regularly scheduled basis to review the practice of the supervised individual, to provide consultation to the supervised individual, to review records, and to further educate the supervised individual in the performance of the individual's functions.

(iii) The provision by the licensed supervising health professional of predetermined procedures and drug protocol.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1991, Act 58, Imd. Eff. June 27, 1991 ;-- Am. 2005, Act 161, Imd. Eff. Oct. 4, 2005
Compiler's Notes: For transfer of the grantee health agency advisory committee to the department of community health, and abolishment of the committee, see E.R.O. No. 2009-7, compiled at MCL 333.26330.
Popular Name: Act 368

333.16626 Dental assistant as second pair of hands.

Sec. 16626.

(1) Subject to subsection (2), and notwithstanding section 16601(1)(f) or the rules promulgated under section 16625(1), a dental hygienist or dental therapist may utilize a dental assistant to act as his or her second pair of hands.

(2) Notwithstanding section 16601(1)(e) or the rules promulgated under section 16625(1), a dental assistant may function as a second pair of hands for a dentist, dental hygienist, or dental therapist if all of the following are met:

(a) The dentist, dental hygienist, or dental therapist is actively performing services in the mouth of a patient at the time the dental assistant is assisting him or her.

(b) If the dental assistant is assisting a dental hygienist, a supervising dentist has assigned the dental assistant to act as the dental hygienist's second pair of hands.

(3) This section does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual who is licensed as a dental assistant, dental hygienist, or dental therapist under this article.

(4) As used in this section, "second pair of hands" means that term as defined in R 338.11101 of the Michigan Administrative Code.

History: Add. 2012, Act 289, Imd. Eff. Aug. 1, 2012 ;-- Am. 2018, Act 463, Eff. Mar. 27, 2019
Popular Name: Act 368

333.16627 Establishment of dental clinic by nonprofit corporation.

Sec. 16627.

The board shall not by rule or other action prohibit the establishment of a dental clinic by a nonprofit corporation organized for this purpose or by trustees of a health and welfare fund if:

(a) The clinic is created, financed, and operated from trust funds derived from payments and contributions under the terms of collective bargaining agreements between employers and representatives of employees and which are

subject to the terms, conditions, and regulations of the labor-management relations act of 1947, 29 U.S.C. 141 to 187.

(b) The clinic is established and operated for the benefit of employees represented or employed by the labor organization, their dependents, and retirees.

(c) The individuals employed by the clinic to practice dentistry are licensed under this article.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.16631 Applicability of section to dentist who uses dental amalgam and who removes dental amalgam; exceptions; procedures; rules; violations; preemption.

Sec. 16631.

(1) Except as otherwise provided, this section applies to a dentist who uses dental amalgam and to a dentist who removes dental amalgam. This section does not apply to any of the following:

(a) Oral and maxillofacial surgeons.

(b) Oral and maxillofacial radiologists.

(c) Oral pathologists.

(d) Orthodontists.

(e) Periodontists.

(f) Dentists while providing services in a dental school, in a hospital, or through a local health department.

(2) On or before December 31, 2013, a dentist described in subsection (1) shall install or have installed and use on each wastewater drain in the dentist's office that is used to discharge dental amalgam a separator that has an efficiency of 95% or more as determined through testing in accordance with standards published by the international organization for standardization in ISO 11143:2008 "Dental equipment â€" Amalgam separators".

(3) On or before the expiration of 90 days after the effective date of this section, the department, in consultation with the department of environmental quality, shall promulgate rules regarding best management practice for dental amalgam collection, disposal, and recycling and the retention and inspection of dental office records regarding the following:

(a) The make, model, and type of dental amalgam separator installed and in use in the office.

(b) The method used to dispose of or recycle the dental amalgam waste collected.

(c) The shipping or other delivery records documenting the transfer of the dental amalgam waste collected to licensed recyclers or disposers.

(d) The proper operation of the dental amalgam separator, including scheduled maintenance as specified in the manufacturer's owner's manual for that separator.

(e) Compliance with dental amalgam best management practices.

(4) A violation of subsection (1) or (2) or a rule promulgated under subsection (3) is a violation of section 16221(h).

(5) Beginning on the effective date of this section and subject to this subsection, this section preempts and supersedes any local ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on dentists than those contained in this section or rules promulgated by the board under this section. A local unit of government may enact, adopt, maintain, amend, or enforce an ordinance, regulation, or resolution that requires implementation of the requirement in subsections (2) and (3) before the date required in subsection (2). A local unit of government shall not enact, adopt, maintain, or enforce an ordinance, regulation, or resolution that imposes conflicting, different, or additional standards or requirements on dentists than those contained in this section or rules promulgated by the board under this section, including, but not limited to, the requirement to obtain a permit that limits the discharge of mercury into wastewater with a limitation greater than that capable of being achieved by full compliance with this section.

History: Add. 2008, Act 503, Imd. Eff. Jan. 13, 2009

333.16641 Work authorization for dental laboratory services required; retention and inspection of work

authorizations and copies.

Sec. 16641.

(1) A dentist shall not use the services of a dental laboratory without furnishing a written work authorization to the dental laboratory and a carbon copy to the patient for constructing, repairing, or altering prosthetic dentures, bridges, orthodontic or other appliances, or structures to be used as substitutes for or as a part of human teeth or jaws or associated structures, or for the correction of malocclusions or deformities.

(2) A dentist shall retain a written work authorization furnished to a dental laboratory or a copy of the authorization for not less than 3 years and allow the board, its agents, or employees to inspect the file of written work authorizations or copies.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.16642 Work authorization for dental laboratory work; form; contents; name or number of work authorization to accompany invoice; prohibition.

Sec. 16642.

(1) A written authorization for dental laboratory work shall be in a form prescribed by the board and shall contain the following:

(a) The name and address of the laboratory.

(b) An identification of the patient by name or number.

(c) The date on which the authorization was written.

(d) The description of the work to be done, with diagrams if necessary.

(e) A specification of the type and quality of materials to be used.

(f) The dentist's signature, complete business address, and license number.

(2) A dental laboratory shall return completed prescribed work to the prescribing dentist or the dentist's office with the name or number of the written work authorization accompanying the invoice.

(3) A dental laboratory shall not have in its possession a prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities, completed or being fabricated without having in its possession a written work authorization therefor.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.16643 Dental laboratory; prohibited conduct.

Sec. 16643.

A dental laboratory shall not advertise, solicit, represent, or hold itself out to the general public that it will sell, supply, furnish, construct, repair, or alter a prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.16644 Record of dental treatment required; retention; rules prescribing form and content; using record for identification purposes.

Sec. 16644.

(1) A dentist shall make a record of all dental treatment which has been performed upon a patient, and shall retain that treatment record for a period of not less than 10 years after the performance of the last service upon the patient.

(2) The board shall promulgate rules to prescribe the form and content of the record required by subsection (1), so that the record may be used for identification purposes.

History: Add. 1982, Act 482, Eff. Mar. 30, 1983
Popular Name: Act 368

333.16645 Marking identification on denture or orthodontic appliance.

Sec. 16645.

(1) Unless the patient specifically declines, a dentist or dental laboratory that sells, supplies, furnishes, constructs, or repairs a full denture, partial denture with acrylic saddle, or removable orthodontic appliance with acrylic saddle for a specific patient shall permanently mark the patient's name or social security number, whichever the patient chooses, on the denture or orthodontic appliance.

(2) A dentist shall notify a patient who is to receive a denture or orthodontic appliance described in subsection (1) that the patient has the right to decline to have identification marked on the denture or orthodontic appliance, shall ask the patient to choose the information to be marked on the denture or orthodontic appliance, and shall indicate the patient's choices on the work order to the dental laboratory.

History: Add. 1989, Act 262, Imd. Eff. Dec. 26, 1989
Popular Name: Act 368

333.16647 Dental laboratory; inspection; compliance; violation as misdemeanor.

Sec. 16647.

(1) The board or an agent or employee of the board may inspect a dental laboratory to determine the laboratory's compliance with this part.

(2) A dental laboratory which violates this part or refuses to allow the board or an agent or employee of the board to inspect a work authorization, prosthetic denture, bridge, orthodontic or other appliance, or structure to be used as a substitute for or as a part of human teeth or jaws or associated structures or for the correction of malocclusions or deformities in its possession is guilty of a misdemeanor.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.16648 Information relative to care and treatment of dental patient; confidentiality; privilege; disclosure; consent; instances not prohibiting disclosure.

Sec. 16648.

(1) Information relative to the care and treatment of a dental patient acquired as a result of providing professional dental services is confidential and privileged. Except as otherwise permitted or required under the

health insurance portability and accountability act of 1996, Public Law 104-191, and regulations promulgated under that act, 45 CFR parts 160 and 164, or as otherwise provided in subsection (2), a dentist or a person employed by the dentist shall not disclose or be required to disclose that information.

(2) This section does not prohibit disclosure of the information described in subsection (1) in the following instances:

(a) Disclosure as part of the defense to a claim in a court or administrative agency challenging the dentist's professional competence.

(b) Disclosure pursuant to 1967 PA 270, MCL 331.531 to 331.533.

(c) Disclosure in relation to a claim for payment of fees.

(d) Disclosure to a third party payer of information relating to fees for services in the course of a good faith examination of the dentist's records to determine the amount and correctness of fees or the type and volume of services furnished pursuant to provisions for payment established by a third party payer, or information required for a third party payer's predeterminations, post treatment reviews, or audits. For purposes of this subdivision, "third party payer" includes, but is not limited to, a nonprofit dental care corporation, nonprofit health care corporation, insurer, benefit fund, health maintenance organization, and dental capitation plan.

(e) Disclosure, pursuant to a court order, to a police agency as part of a criminal investigation.

(f) Disclosure as provided in section 2844a.

(g) Disclosure made pursuant to section 16222 if the licensee reasonably believes it is necessary to disclose the information to comply with section 16222.

(h) Disclosure under section 16281.

History: Add. 1983, Act 89, Imd. Eff. June 16, 1983 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 1998, Act 496, Eff. Mar. 1, 1999 ;-- Am. 2004, Act 401, Imd. Eff. Oct. 20, 2004
Popular Name: Act 368

333.16651 Dental therapist; requirements for licensure.

Sec. 16651.

(1) An individual who is granted a license under this part as a dental therapist may engage in practice as a dental therapist to the extent permitted under this section and sections 16652 to 16658.

(2) To qualify for licensure under this part as a dental therapist, an individual shall apply to the department on forms provided by the department, pay the application fee under section 16323, and demonstrate to the department that he or she meets all of the following:

(a) Has graduated from a dental therapy education program that satisfies all of the following:

(i) Meets the standards established under section 16148 for accreditation of a degree-granting program in dental therapy education at an approved postsecondary education institution.

(ii) As determined by the department in consultation with the board, meets the accreditation standards for dental therapy education programs established by the Commission on Dental Accreditation.

(iii) Is accredited under section 16148.

(iv) Meets any other requirements for dental therapy education programs adopted by the board.

(b) Has passed a comprehensive, competency-based clinical examination approved by the department that includes an examination of the applicant's knowledge of the laws of this state under this part and rules promulgated under this part.

(c) Has completed 500 hours of clinical practice in this state or another state under the direct supervision of a dentist, or an individual authorized under the laws of another state to engage in the practice of dentistry, and in conformity with rules adopted by the board. As used in this subdivision, "direct supervision" means that the dentist or individual described in this subdivision complies with all of the following:

(i) Designates a patient of record upon whom the procedures are to be performed and describes the procedures to be performed.

(ii) Examines the patient before prescribing the procedures to be performed and upon completion of the procedures.

(iii) Is physically present in the office at the time the procedures are being performed.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019 ;-- Am. 2020, Act 298, Eff. Mar. 24, 2021
Popular Name: Act 368

333.16652 Board; granting license; payment of fees.

Sec. 16652.

(1) The board shall grant a license to practice as a dental therapist to an applicant for licensure under sections 16651 to 16658 who meets the requirements of sections 16651 to 16658 and rules adopted under those sections for licensure and pays the application fee under section 16323.

(2) A dental therapist shall pay to the board the license fee under section 16323.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019

333.16653 License renewal; continuing education.

Sec. 16653.

As a condition of renewal of a license to practice under sections 16651 to 16658, a dental therapist shall certify that he or she has successfully completed 35 hours of continuing education in the 2 years before renewal. Continuing education under this section must conform with the requirements of part 161 concerning continuing education courses and must include board-approved courses, including, but not limited to, a course in cardiopulmonary resuscitation.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019
Popular Name: Act 368

333.16654 Dental therapist; scope of practice; within certain health settings.

Sec. 16654.

A dental therapist may provide services described in section 16656 included within the scope of practice as a dental therapist and under the supervision of a dentist in any of the following health settings:

(a) A hospital that is licensed under article 17.

(b) A health facility or agency, other than a hospital, that is licensed under article 17 and is reimbursed as a federally qualified health center as defined in 42 USC 1395x(aa)(4) or that has been determined by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to meet the requirements for funding under section 330 of the public health service act, 42 USC 254b.

(c) A federally qualified health center, as defined in 42 USC 1395x(aa)(4), that is licensed as a health facility or agency under article 17.

(d) An outpatient health program or facility operated by a tribe or tribal organization under the Indian self-determination act, 25 USC 5321 to 5332, or by an urban Indian organization receiving funds under title V of the Indian health care improvement act, 25 USC 1651 to 1660h.

(e) A correctional facility. As used in this subdivision, "correctional facility" means a facility or institution that houses a prisoner population under the jurisdiction of the department of corrections.

(f) A health setting in a geographic area that is designated as a dental shortage area by the United States Department of Health and Human Services.

(g) A school-based health center, as that term is defined in 42 USC 280h-5.

(h) A local health department.

(i) Any other clinic or practice setting, including a mobile dental unit, in which at least 50% of the annual total patient base of the dental therapist will consist of patients who meet any of the following:

(i) Are enrolled in a health care program administered by the department of health and human services.

(ii) Have a medical disability or chronic condition that creates a significant barrier to receiving dental care.

(iii) Do not have dental health coverage, either through a public health care program or private insurance, and have an annual gross family income equal to or less than 200% of the federal poverty level. As used in this subparagraph and subparagraph (iv), "federal poverty level" means the poverty guidelines published annually in the federal register by the United States Department of Health and Human Services under its authority to revise the poverty line under 42 USC 9902.

(iv) Do not have dental health coverage, either through a state public health care program or private insurance, and whose family gross income is equal to or less than 200% of the federal poverty level.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019
Popular Name: Act 368

333.16655 Restricted practice; written practice agreement; requirements; supervising dentist limitations; "written practice agreement" defined.

Sec. 16655.

(1) A dental therapist may practice only under the supervision of a dentist and through a written practice agreement signed by the dental therapist and the dentist. A dental therapist may provide only the services that are within his or her scope of practice, are authorized by a supervising dentist, and are provided according to written protocols or orders established by the supervising dentist.

(2) A dental therapist may perform an oral evaluation and assessment of dental disease and develop an individualized treatment plan if the supervising dentist has given the dental therapist written authorization to provide the services and reviews the patient records as provided in the written practice agreement. The written practice agreement may require the supervising dentist to personally examine patients either face-to-face or by the use of electronic means.

(3) A written practice agreement between a supervising dentist and a dental therapist must include all of the following elements:

(a) The services and procedures and the practice settings for those services and procedures that the dental therapist may provide, together with any limitations on those services and procedures.

(b) Any age-specific and procedure-specific practice protocols, including case selection criteria, assessment guidelines, and imaging frequency.

(c) Procedures to be used with patients treated by the dental therapist for obtaining informed consent and for creating and maintaining dental records.

(d) A plan for review of patient records by the supervising dentist and the dental therapist.

(e) A plan for managing medical emergencies in each practice setting in which the dental therapist provides care.

(f) A quality assurance plan for monitoring care, including patient care review, referral follow-up, and a quality assurance chart review.

(g) Protocols for administering and dispensing medications, including the specific circumstances under which medications may be administered and dispensed.

(h) Criteria for providing care to patients with specific medical conditions or complex medical histories, including requirements for consultation before initiating care.

(i) Specific written protocols, including a plan for providing clinical resources and referrals, governing situations in which the patient requires treatment that exceeds the dental therapist's capabilities or the scope of practice as a dental therapist.

(4) A dental therapist who provides services or procedures beyond those authorized in the written practice agreement engages in unprofessional conduct for the purposes of section 16221.

(5) A supervising dentist shall not supervise more than 4 dental therapists.

(6) A supervising dentist shall actively participate in drafting a written practice agreement with a dental therapist. Any revision to the written practice agreement must be documented in a new written practice agreement signed by the supervising dentist and the dental therapist.

(7) A written practice agreement is valid for 3 years. A supervising dentist and dental therapist shall each review the practice agreement before renewing the practice agreement.

(8) A supervising dentist and a dental therapist who sign a written practice agreement shall keep a copy for the dentist's or dental therapist's own records and make a copy available to patients of the dental therapist, or to the department, on request.

(9) As used in this section and sections 16656 and 16657, "written practice agreement" means a document that is signed by a dentist and a dental therapist and that, in conformity with the legal scope of practice as a dental

therapist, outlines the functions that the dental therapist is authorized to perform.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019
Popular Name: Act 368

333.16656 Scope of practice; services included; prohibition on prescribing a controlled substance; "health care professional" defined.

Sec. 16656.

(1) Under the supervision of a dentist, a licensed dental therapist may provide any of the following care or services:

(a) Identifying oral and systemic conditions that require evaluation or treatment by dentists, physicians, or other health care professionals and managing referrals.

(b) Comprehensive charting of the oral cavity.

(c) Providing oral health instruction and disease prevention education, including nutritional counseling and dietary analysis.

(d) Administering and exposing radiographic images.

(e) Dental prophylaxis including subgingival scaling or polishing procedures.

(f) Dispensing and administering via the oral or topical route nonnarcotic analgesics and anti-inflammatory and antibiotic medications as prescribed by a health care professional.

(g) Applying topical preventative or prophylactic agents, including fluoride varnish, silver diamine fluoride and other fluoride treatments, antimicrobial agents, and pit and fissure sealants.

(h) Pulp vitality testing.

(i) Applying desensitizing medication or resin.

(j) Fabricating athletic mouth guards.

(k) Changing periodontal dressings.

(l) Administering local anesthetic and nitrous oxide analgesia.

(m) Simple extraction of erupted primary teeth.

(n) Emergency palliative treatment of dental pain related to a care or service described in this subsection.

(o) Preparation and placement of direct restoration in primary and permanent teeth.

(p) Fabrication and placement of single-tooth temporary crowns.

(q) Preparation and placement of preformed crowns on primary teeth.

(r) Indirect and direct pulp capping on permanent teeth.

(s) Indirect pulp capping on primary teeth.

(t) Suturing and suture removal.

(u) Minor adjustments and repairs on removable prostheses.

(v) Placement and removal of space maintainers.

(w) Nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility +3. However, a dental therapist shall not extract a tooth for any patient if the tooth is unerupted, impacted, or fractured or needs to be sectioned for removal.

(x) Performing other related services and functions authorized by the supervising dentist and for which the dental therapist is trained.

(y) Performing any other duties of a dental therapist that are authorized by the board by rule.

(2) A dental therapist may supervise dental assistants and dental hygienists to the extent permitted in a written practice agreement. However, a dental therapist shall not supervise more than 3 dental assistants and 2 dental hygienists in any 1 practice setting.

(3) A dental therapist shall not prescribe a controlled substance that is included in schedules 2 to 5 of part 72.

(4) As used in this section and section 16657, "health care professional" means an individual who is authorized to practice a health profession under this article.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019
Popular Name: Act 368

333.16657 Referrals; beyond scope of practice.

Sec. 16657.

(1) A supervising dentist shall arrange for another dentist or specialist to provide any services needed by a patient of a dental therapist who is supervised by that dentist that are beyond the scope of practice of the dental therapist and that the supervising dentist is unable to provide.

(2) A dental therapist, in accordance with a written practice agreement entered into under section 16655, shall refer patients to another qualified dental professional or health care professional to receive needed services that exceed the scope of practice of the dental therapist.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019
Popular Name: Act 368

333.16658 Rules; study on licensing dental therapists; written report.

Sec. 16658.

(1) Within 12 months after the effective date of the amendatory act that added this section, the department, in consultation with the board, shall promulgate any rules that the department considers necessary to implement this section and sections 16651 to 16657.

(2) Within 7 years after the effective date of the amendatory act that added this section, the department of health and human services, in consultation with the department, shall conduct and complete a study concerning the impact of licensing dental therapists on patient safety, cost-effectiveness, and access to dental services in this state. The study shall focus on the following outcome measures:

(a) Number of new patients served.

(b) Reduction in waiting time for needed services.

(c) Decreased travel time for patients.

(d) Impact on emergency room usage for dental care.

(e) Costs to the health care system.

(3) Within 30 days after the completion of the study described in subsection (2), the department of health and human services shall provide a written report concerning the results of the study to the director of the department and the chairs of the standing committees of the senate and house of representatives responsible for health policy.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019
Compiler's Notes: Act 368

333.16659 Third party reimbursement or mandated worker's compensation benefits.

Sec. 16659.

Sections 16651 to 16658 do not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual who is licensed as a dental therapist under this article.

History: Add. 2018, Act 463, Eff. Mar. 27, 2019
Popular Name: Act 368

Part 168.
AUDIOLOGY

333.16801 Definitions; scope of practice; limitation.

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.

History: Add. 2004, Act 97, Imd. Eff. May 7, 2004
Popular Name: Act 368

333.16803 Practice of audiology; license required; use of words, titles, or letters.

Sec. 16803.

(1) Beginning September 4, 2004 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.

(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 individuals authorized under this part to use the following terms and in a way prescribed in this part: "audiometrist", "audiologist", "hearing therapist", "hearing aid audiologist", "educational audiologist", "industrial audiologist", and "clinical audiologist".

History: Add. 2004, Act 97, Imd. Eff. May 7, 2004 ;-- Am. 2006, Act 411, Imd. Eff. Sept. 29, 2006
Popular Name: Act 368

333.16805 Michigan board of audiology; creation; membership; terms of office.

Sec. 16805.

(1) 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.

(2) The terms of office of individual members of the board created under subsection (1), except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term will expire.

History: Add. 2004, Act 97, Imd. Eff. May 7, 2004 ;-- Am. 2006, Act 411, Imd. Eff. Sept. 29, 2006
Popular Name: Act 368

333.16807 Limitations; exceptions.

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.

History: Add. 2004, Act 97, Imd. Eff. May 7, 2004
Popular Name: Act 368

333.16809 Administration of tests; compliance with federal guidelines for fitting and dispensing hearing instruments; sale of hearing instrument to person under 18 years of age.

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.

History: Add. 2004, Act 97, Imd. Eff. May 7, 2004
Popular Name: Act 368

333.16811 Requirements for licensure.

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.

History: Add. 2004, Act 97, Imd Eff. May 7, 2004
Popular Name: Act 368

Part 169
MARRIAGE AND FAMILY THERAPY

333.16901 Definitions; principles of construction.

Sec. 16901.

(1) As used in this part:

(a) "Advertise" means issuing or ordering the printing or distribution of a card, sign, or device or causing, permitting, or allowing a sign or marking on or in a building or structure, or placing material in a newspaper, magazine, or directory, or on radio or television.

(b) "Marriage and family therapist" means an individual licensed under this article to engage in the practice of marriage and family therapy.

(c) "Practice of marriage and family therapy" means the providing of guidance, testing, discussions, therapy, instruction, or advice that is intended to avoid, eliminate, relieve, manage, or resolve marital or family conflict or discord, to create, improve, or restore marital or family harmony, or to prepare couples for marriage. Practice of marriage and family therapy does not include the administration and interpretation of psychological tests except for those tests that are consistent with the individual's education and training and with the code of ethics for licensed marriage and family therapists.

(2) In addition to the definitions of 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.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996
Popular Name: Act 368

333.16903 Restricted use of title; advertising; limited license; use of title during training period; use of words, titles, or letters.

Sec. 16903.

(1) An individual licensed under this part as a marriage and family therapist shall use only the title "licensed marriage and family therapist" or "licensed marriage counselor" or the abbreviation "l.m.f.t." in representing his or her services in the practice of marriage and family therapy to the public.

(2) Unless exempt under section 16905(3), only an individual licensed under this part may advertise that he or she offers marriage and family therapy; marriage or family counseling service or advice; marriage or family guidance service or advice; marriage or family relations service or advice; marriage or family problems service or advice; marriage or family relations advice or assistance; service in the alleviation of a marital or family problem; or service of similar import or effect that is included in the practice of marriage and family therapy.

(3) The board may grant a limited license to an individual who has met the requirements of section 16909(a) and (b) in order to permit that individual to obtain the experience required under section 16909(c). The board shall not renew a limited license for more than 6 years. A limited licensee shall do all of the following:

(a) Use only the title "limited licensed marriage and family therapist" or "limited licensed marriage counselor".

(b) Not represent that he or she is engaged in the independent practice of marriage and family therapy.

(c) Practice only under the supervision of a fully licensed marriage and family therapist.

(d) Confine his or her practice to an organized health care setting or other arrangement approved by the board.

(4) An individual engaged in obtaining experience required under section 16909(b) may use the title "marriage and family therapist intern" or "marriage and family therapist trainee" during the training period. The board shall not require an individual obtaining experience required under section 16909(b) to hold a limited license.

(5) The following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those individuals authorized under this part to use the terms and in a way prescribed by this part: "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"; or "marital counselor" or "marital therapist".

History: Add. 1995, Act 126, Eff. Jan. 1, 1996 ;-- Am. 2006, Act 388, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.16905 Exceptions.

Sec. 16905.

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

(2) This part does not apply to an ordained cleric or other religious practitioner who is employed by or working under the authority of an organization exempt from taxation under section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, if the advice or counsel given by the cleric or other religious practitioner is incidental to his or her duties as a cleric or other religious practitioner, and if the cleric or other religious practitioner does not hold himself or herself out to the public as a marriage and family therapist licensed under this article or use 1 or more of the titles listed in section 16903 and if no fee or donation is exacted for the service.

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

(a) The individual is practicing his or her profession in a manner consistent with his or her education and training and is practicing in a manner consistent with the code of ethics of that profession.

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

(4) This part does not limit an individual in, or prevent an individual from, the practice of a statutorily regulated profession or occupation if services to families, couples, or subsystems of families are part of the services provided by that profession or occupation, and if the individual does not hold himself or herself out to the public as a marriage and family therapist licensed under this article or use 1 or more of the titles listed in section 16903. As used in this subsection, "statutorily regulated profession or occupation" means an occupation or profession regulated by statute that includes, but is not limited to, all of the following: a physician, attorney, social worker, social service technician, fully licensed psychologist, limited licensed psychologist, temporary limited licensed psychologist, licensed professional counselor, limited licensed counselor, or school counselor.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996 ;-- Am. 2006, Act 388, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.16907 Board of marriage and family therapy; creation; membership; terms.

Sec. 16907.

(1) Subject to section 16913(2), the Michigan board of marriage and family therapy is created in the department. The board consists of the following 9 voting members who shall meet the requirements of part 161: six licensed marriage and family therapists and 3 public members.

(2) Subject to section 16913(2), the terms of office of individual members of the board created under subsection (1), except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term will expire.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996 ;-- Am. 2006, Act 388, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.16909 Marriage and family therapist; licensure requirements.

Sec. 16909.

(1) The board shall grant a license as a marriage and family therapist to an individual who meets all of the following requirements:

(a) Provides satisfactory evidence to the board of meeting either of the following educational qualifications:

(i) Has a master's or higher graduate degree from an accredited training program in marriage and family therapy approved by the board.

(ii) Has a master's or higher graduate degree from an accredited college or university approved by the board and has completed all of the following graduate-level courses at an accredited college or university approved by the board:

(A) Three courses in family studies that total at least 6 semester or 9 quarter hours.

(B) Three courses in family therapy methodology that total at least 6 semester or 9 quarter hours.

(C) Three courses in human development, personality theory, or psychopathology that total at least 6 semester or 9 quarter hours.

(D) At least 2 semester or 3 quarter hours in ethics, law, and standards of professional practice.

(E) At least 2 semester or 3 quarter hours in research.

(b) Except as otherwise provided in subsection (2), provides satisfactory evidence to the board of having completed supervised clinical marriage and family therapy experience in conjunction with the applicant's educational program. The clinical marriage and family therapy experience described in this subdivision shall meet all of the following requirements:

(i) Be obtained either in a clinical practicum during graduate education or in a postgraduate marriage and family institute training program acceptable to the board.

(ii) Be obtained over not less than 8 consecutive months.

(iii) Be verified by a supervisor who has a master's or higher graduate degree from an accredited college or university approved by the board and meets 1 of the following:

(A) Is a marriage and family therapist.

(B) Is a certified social worker or a social worker registered under article 16 of the occupational code, 1980 PA 299, MCL 339.1601 to 339.1610.

(C) Is a licensed professional counselor as defined in section 18101.

(D) Is a physician as defined in section 17001 or 17501 and practicing in a mental health setting.

(E) Is a fully licensed psychologist as defined in section 18201.

(F) Is an approved supervisor or supervisor-in-training through a program conducted by the American association for marriage and family therapy and approved by the board.

(iv) Include not less than 300 direct client contact hours in supervised clinical marriage and family therapy experience, at least 1/2 of which were completed in a setting in which families, couples, or subsystems of families were physically present in the therapy room.

(v) Be supervised in a ratio of at least 1 hour of supervision for each 5 hours of direct client contact, for a total of not less than 60 hours of supervision concurrent with the 300 hours of supervised direct client contact.

(c) Except as otherwise provided in subsection (2), provides satisfactory evidence to the board of having completed a minimum of 1,000 direct client contact hours in supervised marriage and family therapy experience, at least 1/2 of which was completed with families, couples, or subsystems of families physically present in the therapy room, that meets all of the following conditions:

(i) Is verified by the supervising licensed marriage and family therapist.

(ii) Is obtained following the completion of the degree required by subdivision (a)(i), is obtained following the completion of the degree required by subdivision (a)(ii) and concurrent with or following the course work specified in subdivision (a)(ii)(A), (B), (C), (D), and (E), or is obtained as part of a doctoral program in marriage and family therapy from an accredited college or university approved by the board, which experience may include experience obtained under subdivision (b)(i).

(iii) Is supervised in a ratio of at least 1 hour of supervision for each 5 hours of experience, for a total of not less than 200 hours of supervision concurrent with the 1,000 hours of supervised experience. Not less than 100 hours of supervision under this subparagraph shall be individual supervision with no more than 1 other supervisee present. The remaining supervision under this subparagraph may be group supervision involving no more than 6 supervisees with 1 supervisor. The supervision shall be given in face-to-face contact with the individual obtaining marriage and family therapy experience.

(2) The board shall waive the requirements of subsection (1)(b) and (c) for an applicant who provides satisfactory evidence to the board of having obtained a doctoral degree from an accredited doctoral training program in marriage and family therapy approved by the board.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996 ;-- Am. 1996, Act 536, Imd. Eff. Jan. 13, 1997 ;-- Am. 1997, Act 188, Imd. Eff. Dec. 30, 1997

Popular Name: Act 368

333.16911 Privileged information; waiver.

Sec. 16911.

(1) Except as provided in subsection (3), information regarding an individual to whom a licensee provided marriage and family therapy is privileged information and not subject to waiver, regardless of any of the following:

(a) Whether the information was obtained directly from the individual, from another person involved in the therapy, from a test or other evaluation mechanism, or from other sources.

(b) Whether the information was obtained before, during, or following therapy.

(c) Whether the individual involved is a present client or a former client.

(2) Except as provided in subsection (3), referrals made by a circuit court or its counseling service, as provided in the circuit court family counseling services act, Act No. 155 of the Public Acts of 1964, being sections 551.331 to 551.344 of the Michigan Compiled Laws, is privileged information not subject to waiver.

(3) The privilege established in this section is waived only under 1 of the following circumstances:

(a) If disclosure is required by law or necessary to protect the health or safety of an individual.

(b) If the licensee is a party defendant to a civil, criminal, or administrative action arising from services performed as a licensee, in which case the waiver is limited only to that action.

(c) If a waiver specifying the terms of disclosure is obtained in writing from each individual over 18 years of age involved in the marriage and family therapy and then only in accordance with the terms of the written waiver. If more than 1 individual is or was involved in the marriage and family therapy performed by a licensee, the privilege is not waived for any individual unless all individuals over 18 years of age involved in the marriage and family therapy have executed the written waiver.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996
Popular Name: Act 368

333.16913 Licenses issued under former article; terms of board members appointed under former section; effect of rules promulgated under former article.

Sec. 16913.

(1) An individual who holds a license issued under former article 15 of Act No. 299 of the Public Acts of 1980 on the effective date of the amendatory act that added this part is licensed under this part until that license expires and may renew his or her license pursuant to part 161.

(2) The members of the board of marriage and family therapy created under former section 1502 of Act No. 299 of the Public Acts of 1980 shall serve as the initial members of the Michigan board of marriage and family therapy until their successors are appointed under this article or until the expiration of their respective terms, whichever occurs first. However, if the term of a member of the board of marriage and family therapy created under former section 1502 of Act No. 299 of the Public Acts of 1980 has not expired on the effective date of the amendatory act that added this part, that term expires on June 30 of the year in which the term will expire.

(3) Rules promulgated by the board of marriage and family therapy under former article 15 of Act No. 299 of the Public Acts of 1980 and under section 308 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.308 of the Michigan Compiled Laws, and in effect on the effective date of the amendatory act that added this part continue in effect to the extent that they do not conflict with this article. The rules shall be enforced by and may be amended or rescinded by the Michigan board of marriage and family therapy.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996
Popular Name: Act 368

333.16915 Additional health care payments or benefits not mandated by part.

Sec. 16915.

The addition of this part to the code does not mandate additional coverage, payments, or benefits by a health

care payment or benefits provider including, but not limited to, a health insurer, nonprofit health care corporation, or health maintenance organization.

History: Add. 1995, Act 126, Eff. Jan. 1, 1996
Popular Name: Act 368

Part 170
MEDICINE

333.17001 Definitions; principles of construction.

Sec. 17001.

(1) As used in this part:

(a) "Academic institution" means either of the following:

(i) A medical school approved by the board.

(ii) A hospital licensed under article 17 that meets all of the following requirements:

(A) Was the sole sponsor or a co-sponsor, if each other co-sponsor is either a medical school approved by the board or a hospital owned by the federal government and directly operated by the United States Department of Veterans Affairs, of not less than 4 postgraduate education residency programs approved by the board under section 17031(1) for not less than the 3 years immediately preceding the date of an application for a limited license under section 16182(2)(c) or an application for a full license under section 17031(2), if at least 1 of the residency programs is in the specialty area of medical practice, or in a specialty area that includes the subspecialty of medical practice, in which the applicant for a limited license proposes to practice or in which the applicant for a full license has practiced for the hospital.

(B) Has spent not less than $2,000,000.00 for medical education during each of the 3 years immediately preceding the date of an application for a limited license under section 16182(2)(c) or an application for a full license under section 17031(2). As used in this sub-subparagraph, "medical education" means the education of physicians and candidates for degrees or licenses to become physicians, including, but not limited to, physician staff, residents, interns, and medical students.

(b) "Electrodiagnostic studies" means the testing of neuromuscular functions utilizing nerve conduction tests and needle electromyography. It does not include the use of surface electromyography.

(c) "Genetic counselor" means an individual who is licensed under this part to engage in the practice of genetic counseling.

(d) "Medical care services" means those services within the scope of practice of physicians who are licensed or authorized by the board, except those services that the board prohibits or otherwise restricts within a practice agreement or determines shall not be delegated by a physician because a delegation would endanger the health and safety of patients as provided for in section 17048(1).

(e) "Participating physician" means a physician, a physician designated by a group of physicians under section 17049 to represent that group, or a physician designated by a health facility or agency under section 20174 to represent that health facility or agency.

(f) "Physician" means an individual who is licensed or authorized under this article to engage in the practice of medicine.

(g) "Podiatrist" means an individual who is licensed under this article to engage in the practice of podiatric medicine and surgery.

(h) "Practice agreement" means an agreement described in section 17047.

(i) "Practice of genetic counseling" means provision of any of the following services:

(i) Obtaining and evaluating individual, family, and medical histories to determine the genetic risk for genetic or medical conditions or diseases in a client, the client's descendants, or other family members of the client.

(ii) Discussing with a client the features, natural history, means of diagnosis, genetic and environmental factors, and management of the genetic risks of genetic or medical conditions or diseases.

(iii) Identifying and coordinating appropriate genetic laboratory tests and other diagnostic studies for genetic assessment of a client.

(iv) Integrating genetic laboratory test results and other diagnostic studies with personal and family medical history to assess and communicate a client's risk factors for genetic or medical conditions or diseases.

(v) Explaining to a client the clinical implications of genetic laboratory tests and other diagnostic studies and their results.

(vi) Evaluating the responses of a client and the client's family to a genetic or medical condition or disease or to the risk of recurrence of that condition or disease and providing client-centered counseling and anticipatory

guidance.

(vii) Identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy to a client.

(viii) Providing written documentation of medical, genetic, and counseling information for families of and health care professionals of a client.

(j) "Practice of medicine" means the diagnosis, treatment, prevention, cure, or relieving of a human disease, ailment, defect, complaint, or other physical or mental condition, by attendance, advice, device, diagnostic test, or other means, or offering, undertaking, attempting to do, or holding oneself out as able to do, any of these acts.

(k) "Practice as a physician's assistant" means the practice of medicine with a participating physician under a practice agreement.

(l) "Qualified supervisor" means an individual who is a genetic counselor and who holds a license under this part other than a temporary or limited license.

(m) "Task force" means the joint task force created in section 17025.

(n) "Temporary licensed genetic counselor" means a genetic counselor who has been issued a temporary license under this article.

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

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990 ;-- Am. 1990, Act 248, Imd. Eff. Oct. 12, 1990 ;-- Am. 2005, Act 264, Eff. Mar. 30, 2006 ;-- Am. 2006, Act 161, Eff. Nov. 26, 2006 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017 ;-- Am. 2018, Act 524, Eff. Mar. 28, 2019 ;-- Am. 2018, Act 624, Eff. Mar. 28, 2019
Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Popular Name: Act 368

333.17008 Physician's assistant; health profession subfield.

Sec. 17008.

Practice as a physician's assistant is a health profession subfield of the practice of medicine, osteopathic medicine and surgery, and podiatric medicine and surgery.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2006, Act 161, Eff. Nov. 26, 2006
Popular Name: Act 368

333.17011 License or authorization required; granting license to individuals meeting certain requirements; prohibition; conditions for granting license; use of words, titles, or letters.

Sec. 17011.

(1) An individual shall not engage in the practice of medicine or practice as a physician's assistant unless licensed or otherwise authorized by this article. An individual shall not engage in teaching or research that requires the practice of medicine unless the individual is licensed or otherwise authorized by this article.

(2) Notwithstanding section 16145 or rules promulgated under that section, the board may grant a license to an individual who meets the requirements of section 16186 or 17031(2) after reviewing the applicant's record of practice, experience, and credentials and determining that the applicant is competent to practice medicine.

(3) For individuals applying for licensure under section 16186, the board shall not impose requirements on graduates of medical schools located outside the United States or Canada that exceed the requirements imposed on graduates of medical schools located in the United States or Canada.

(4) Notwithstanding section 16145 or rules promulgated under that section, the board may grant a license in accordance with section 16186 after determining that each of the following conditions is satisfied:

(a) The applicant has disclosed that a sanction is in force against him or her as described in section 16174(2)(b) and considering the reasons for the sanction and the applicant's record of practice, experience, credentials, and

competence to engage in the practice of medicine, that sanction should not prevent the applicant from being granted a license in this state.

(b) The sanction imposed by the other state is not permanent.

(c) The sanction imposed by the other state was not the result of a patient safety violation.

(d) If the applicant was required by the state that imposed the sanction to participate in and complete a probationary period or treatment plan as a condition of the continuation of his or her licensure, the applicant did not complete the probationary period or treatment plan because the applicant ceased engaging in the practice of medicine in that state.

(e) As a condition of licensure under this subsection, the applicant voluntarily agrees to complete a probationary period or treatment plan, the terms of which are no less stringent than those imposed by the state that imposed the sanction.

(5) Except as otherwise provided in this subsection, the following words, titles, or letters or a combination thereof, with or without qualifying words or phrases, are restricted in use only to those individuals authorized under this part to use the terms and in a way prescribed in this part: "doctor of medicine", "m.d.", "physician's assistant", and "p.a.". Notwithstanding section 16261, an individual 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 individual is licensed under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1980, Act 2, Imd. Eff. Feb. 6, 1980 ;-- Am. 1990, Act 248, Imd. Eff. Oct. 12, 1990 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 385, Imd. Eff. Sept. 27, 2006 ;-- Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.17011a Expedited license under the interstate medical licensure compact; authorization to engage in practice of medicine; "interstate medical licensure compact" defined.

Sec. 17011a.

(1) An allopathic physician who holds an expedited license under the interstate medical licensure compact is authorized to engage in the practice of medicine under this article.

(2) For purposes of this article, including the obligations of an individual who is licensed as a physician under this part, an allopathic physician who holds an expedited license under the interstate medical licensure compact is considered a physician who is licensed under this part.

(3) As used in this section, "interstate medical licensure compact" means the interstate medical licensure compact as enacted in section 16189.

History: Add. 2018, Act 524, Eff. Mar. 28, 2019
Popular Name: Act 368

333.17012 Postgraduate medical study requiring practice of medicine; full or limited license required; requirements of limited license; training; renewing limited license.

Sec. 17012.

(1) An individual shall not engage in postgraduate medical study which requires the practice of medicine by that individual without a full or limited license to practice under this part.

(2) A limited license for a postgraduate shall require that the individual confine his or her practice and training to a hospital or institution approved by the board for the training. The hospital or institution is responsible for the training. A limited license for a postgraduate is renewable for not more than 5 years.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17013 Alternative methods of treatment of breast cancer; duty of physician to inform patient; standardized written summary or brochure; form; civil action.

Sec. 17013.

(1) Beginning November 6, 1986, a physician who is administering the primary treatment for breast cancer to a patient who has been diagnosed as having breast cancer shall inform the patient, orally and in writing, about alternative methods of treatment of the cancer, including surgical, radiological, or chemotherapeutic treatments, or any other generally accepted medical treatment. The physician also shall inform the patient about the advantages, disadvantages, and risks of each method of treatment and about the procedures involved in each method of treatment.

(2) If a patient receives a standardized written summary or brochure, as described in this subsection or subsection (3), the physician shall be in full compliance with this section, including both the written and oral requirements. The standardized written summary:

(a) Shall be developed by the department of public health in cooperation with the chronic disease advisory committee.

(b) Shall be drafted in nontechnical terms that the patient can understand.

(c) Shall inform the patient about alternative methods of treatment of breast cancer, including surgical, radiological, or chemotherapeutic treatments, or any other generally accepted medical treatment.

(d) Shall inform the patient about the advantages, disadvantages, and risks of each method of treatment and about the procedures involved in each method of treatment.

(e) The standardized written summary or a brochure described in subsection (3), or both, shall be made available to physicians through the Michigan board of medicine and the Michigan board of osteopathic medicine and surgery. The Michigan board of medicine and the Michigan board of osteopathic medicine and surgery shall notify in writing all physicians subject to this section of the requirements of this section and the availability of the standardized written summary by October 16, 1986.

(3) For purposes of subsection (2), a physician may use a brochure which contains information substantially similar to that contained in the standardized written summary developed by the department of public health and which is approved by the department of public health.

(4) The department of public health, after consultation with appropriate professional organizations, shall develop the standardized written summary required by subsection (2) by October 6, 1986.

(5) A form, signed by the patient, indicating that the patient has been given a copy of the brochure or the standardized written summary shall be included in the patient's medical record.

(6) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would know.

(7) A patient who signs a form pursuant to subsection (5) shall be barred from subsequently bringing a civil action against the physician providing the summary or brochure described in subsection (2) and (3) based on failure to obtain informed consent, but only in regard to information pertaining to alternative forms of treatment of breast cancer, and the advantages, disadvantages, and risks of each method.

History: Add. 1986, Act 195, Imd. Eff. July 8, 1986 ;-- Am. 1989, Act 15, Imd. Eff. May 15, 1989
Popular Name: Act 368

333.17014 Repealed. 2023, Act 209, Eff. Feb. 13, 2024.

Compiler's Notes: The repealed section pertained to legislative findings regarding the enactment of measures favoring childbirth over abortion.
Popular Name: Act 368
Popular Name: Informed Consent

333.17015 Informed consent; definitions; duties of physician or assistant; location; disclosure of

information; view of ultrasound; medical emergency necessitating abortion; duties of department; physician's duty to inform patient; validity of consent or certification form; right to abortion not created; prohibition; portion of act found invalid; duties of local health department; confidentiality.

Sec. 17015.

(1) Subject to subsection (10), a physician shall not perform an abortion otherwise permitted by law without the patient's informed written consent, given freely and without coercion to abort.

(2) For purposes of this section and section 17015a:

(a) "Abortion" means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a fetus that has died as a result of natural causes, accidental trauma, or a criminal assault on the pregnant woman. Abortion does not include the use or prescription of a drug or device intended as a contraceptive.

(b) "Coercion to abort" means an act committed with the intent to coerce an individual to have an abortion, which act is prohibited by section 213a of the Michigan penal code, 1931 PA 328, MCL 750.213a.

(c) "Domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

(d) "Fetus" means an individual organism of the species Homo sapiens in utero.

(e) "Local health department representative" means an individual who meets 1 or more of the licensing requirements listed in subdivision (h) and who is employed by, or under contract to provide services on behalf of, a local health department.

(f) "Medical emergency" means a condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant individual as to necessitate the immediate abortion of the individual's pregnancy to avert the individual's death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

(g) "Medical service" means the provision of a treatment, procedure, medication, examination, diagnostic test, assessment, or counseling, including, but not limited to, a pregnancy test, ultrasound, pelvic examination, or an abortion.

(h) "Qualified person assisting the physician" means another physician or a physician's assistant licensed under this part or part 175, a fully licensed or limited licensed psychologist licensed under part 182, a professional counselor licensed under part 181, a registered professional nurse or a licensed practical nurse licensed under part 172, or a social worker licensed under part 185.

(i) "Probable gestational age of the fetus" means the gestational age of the fetus at the time an abortion is planned to be performed.

(j) "Provide the patient with a physical copy" means confirming that the patient accessed the internet website described in subsection (5) and received a printed valid confirmation form from the website and including that form in the patient's medical record or giving a patient a copy of a required document by 1 or more of the following means:

(i) In person.

(ii) By registered mail, return receipt requested.

(iii) By parcel delivery service that requires the recipient to provide a signature in order to receive delivery of a parcel.

(iv) By facsimile transmission.

(3) Subject to subsection (10), a physician or a qualified person assisting the physician shall do all of the following not less than 24 hours before that physician performs an abortion upon a patient who is pregnant:

(a) Confirm that, according to the best medical judgment of a physician, the patient is pregnant, and determine the probable gestational age of the fetus.

(b) Orally describe, in language designed to be understood by the patient, taking into account the patient's age, level of maturity, and intellectual capability, each of the following:

(i) The probable gestational age of the fetus the patient is carrying.

(ii) Information about what to do and whom to contact should medical complications arise from the abortion.

(iii) Information about how to obtain pregnancy prevention information through the department of health and human services.

(c) Provide the patient with a physical copy of the written standardized summary described in subsection (11)(b) that corresponds to the procedure the patient will undergo and is provided by the department of health and human services. If the procedure has not been recognized by the department of health and human services, but is otherwise allowed under Michigan law, and the department of health and human services has not provided a written standardized summary for that procedure, the physician shall develop and provide a written summary that describes the procedure, any known risks or complications of the procedure, and risks associated with live birth and meets the requirements of subsection (11)(b)(iii) through (vii).

(d) Provide the patient with a physical copy of a medically accurate depiction, illustration, or photograph and

description of a fetus supplied by the department of health and human services pursuant to subsection (11)(a) at the gestational age nearest the probable gestational age of the patient's fetus.

(e) Provide the patient with a physical copy of the prenatal care and parenting information pamphlet distributed by the department of health and human services under section 9161.

(f) Provide the patient with a physical copy of the prescreening summary on prevention of coercion to abort described in subsection (11)(i).

(4) The requirements of subsection (3) may be fulfilled by the physician or a qualified person assisting the physician at a location other than the health facility where the abortion is to be performed. The requirement of subsection (3)(a) that a patient's pregnancy be confirmed may be fulfilled by a local health department under subsection (18). The requirements of subsection (3) cannot be fulfilled by the patient accessing an internet website other than the internet website that is maintained and operated by the department of health and human services under subsection (11)(g).

(5) The requirements of subsection (3)(c) through (f) may be fulfilled by a patient accessing the internet website that is maintained and operated by the department of health and human services under subsection (11)(g) and receiving a printed, valid confirmation form from the website that the patient has reviewed the information required in subsection (3)(c) through (f) at least 24 hours before an abortion being performed on the patient. The website must not require any information be supplied by the patient. The department of health and human services shall not track, compile, or otherwise keep a record of information that would identify a patient who accesses this website. The patient shall supply the valid confirmation form to the physician or qualified person assisting the physician to be included in the patient's medical record to comply with this subsection.

(6) Subject to subsection (10), before obtaining the patient's signature on the acknowledgment and consent form, a physician personally and in the presence of the patient shall do all of the following:

(a) Provide the patient with the physician's name, confirm with the patient that the coercion to abort screening required under section 17015a was performed, and inform the patient of the right to withhold or withdraw consent to the abortion at any time before performance of the abortion.

(b) Orally describe, in language designed to be understood by the patient, taking into account the patient's age, level of maturity, and intellectual capability, each of the following:

(i) The specific risk, if any, to the patient of the complications that have been associated with the procedure the patient will undergo, based on the patient's particular medical condition and history as determined by the physician.

(ii) The specific risk of complications, if any, to the patient if the patient chooses to continue the pregnancy based on the patient's particular medical condition and history as determined by a physician.

(7) To protect a patient's privacy, the information set forth in subsection (3) and subsection (6) must not be disclosed to the patient in the presence of another patient.

(8) If at any time before the performance of an abortion, a patient undergoes an ultrasound examination, or a physician determines that ultrasound imaging will be used during the course of a patient's abortion, the physician or qualified person assisting the physician shall provide the patient with the opportunity to view or decline to view an active ultrasound image of the fetus, and offer to provide the patient with a physical picture of the ultrasound image of the fetus before the performance of the abortion. After the expiration of the 24-hour period prescribed under subsection (3) but before performing an abortion on a patient who is pregnant, a physician or a qualified person assisting the physician shall do all of the following:

(a) Obtain the patient's signature on the acknowledgment and consent form described in subsection (11)(c) confirming that the patient has received the information required under subsection (3).

(b) Provide the patient with a physical copy of the signed acknowledgment and consent form described in subsection (11)(c).

(c) Retain a copy of the signed acknowledgment and consent form described in subsection (11)(c) and, if applicable, a copy of the pregnancy certification form completed under subsection (18)(b), in the patient's medical record.

(9) This subsection does not prohibit notifying the patient that payment for medical services will be required or that collection of payment in full for all medical services provided or planned may be demanded after the 24-hour period described in this subsection has expired. A physician or an agent of the physician shall not collect payment, in whole or in part, for a medical service provided to or planned for a patient before the expiration of 24 hours from the time the patient has done either or both of the following, except in the case of a physician or an agent of a physician receiving capitated payments or under a salary arrangement for providing those medical services:

(a) Inquired about obtaining an abortion after the patient's pregnancy is confirmed and the patient has received from that physician or a qualified person assisting the physician the information required under subsection (3)(c) and (d).

(b) Scheduled an abortion to be performed by that physician.

(10) If the attending physician, utilizing the physician's experience, judgment, and professional competence, determines that a medical emergency exists and necessitates performance of an abortion before the requirements of subsections (1), (3), and (6) can be met, the physician is exempt from the requirements of subsections (1), (3), and (6), may perform the abortion, and shall maintain a written record identifying with specificity the medical factors

upon which the determination of the medical emergency is based.

(11) The department of health and human services shall do each of the following:

(a) Produce medically accurate depictions, illustrations, or photographs of the development of a human fetus that indicate by scale the actual size of the fetus at 2-week intervals from the fourth week through the twenty-eighth week of gestation. Each depiction, illustration, or photograph must be accompanied by a printed description, in nontechnical English, Arabic, and Spanish, of the probable anatomical and physiological characteristics of the fetus at that particular state of gestational development.

(b) Subject to subdivision (e), develop, draft, and print, in nontechnical English, Arabic, and Spanish, written standardized summaries, based upon the various medical procedures used to abort pregnancies, that do each of the following:

(i) Describe, individually and on separate documents, those medical procedures used to perform abortions in this state that are recognized by the department of health and human services.

(ii) Identify the physical complications that have been associated with each procedure described in subparagraph (i) and with live birth, as determined by the department. In identifying these complications, the department shall consider studies concerning complications that have been published in a peer review medical journal, with particular attention paid to the design of the study, and shall consult with the Centers for Disease Control and Prevention, the American Congress of Obstetricians and Gynecologists, the Michigan State Medical Society, or any other source that the department of health and human services determines appropriate for the purpose.

(iii) State that as the result of an abortion, some individuals may experience depression, feelings of guilt, sleep disturbance, loss of interest in work or sex, or anger, and that if these symptoms occur and are intense or persistent, professional help is recommended.

(iv) State that not all of the complications listed in subparagraph (ii) may pertain to that particular patient and refer the patient to the patient's physician for more personalized information.

(v) Identify services available through public agencies to assist the patient during the patient's pregnancy and after the birth of the child, should the patient choose to give birth and maintain custody of the child.

(vi) Identify services available through public agencies to assist the patient in placing the child in an adoptive or foster home, should the patient choose to give birth but not maintain custody of the child.

(vii) Identify services available through public agencies to assist the patient and provide counseling should the patient experience subsequent adverse psychological effects from the abortion.

(c) Develop, draft, and print, in nontechnical English, Arabic, and Spanish, an acknowledgment and consent form that includes only the following language above a signature line for the patient:

"I, _____ , voluntarily and willfully hereby authorize Dr. _____ ("the physician") and any assistant designated by the physician to perform upon me the following operation(s) or procedure(s):

_____

(Name of operation(s) or procedure(s))

_____

A. I understand that I am approximately _____ weeks pregnant. I consent to an abortion procedure to terminate my pregnancy. I understand that I have the right to withdraw my consent to the abortion procedure at any time before performance of that procedure.

B. I understand that it is illegal for anyone to coerce me into seeking an abortion.

C. I acknowledge that at least 24 hours before the scheduled abortion I have received a physical copy of each of the following:

1. A medically accurate depiction, illustration, or photograph of a fetus at the probable gestational age of the fetus I am carrying.

2. A written description of the medical procedure that will be used to perform the abortion.

3. A prenatal care and parenting information pamphlet.

D. If any of the documents listed in paragraph C were transmitted by facsimile, I certify that the documents were clear and legible.

E. I acknowledge that the physician who will perform the abortion has orally described all of the following to me:

1. The specific risk to me, if any, of the complications that have been associated with the procedure I am scheduled to undergo.

2. The specific risk to me, if any, of the complications if I choose to continue the pregnancy.

F. I acknowledge that I have received all of the following information:

1. Information about what to do and whom to contact in the event that complications arise from the abortion.

2. Information pertaining to available pregnancy related services.

G. I have been given an opportunity to ask questions about the operation(s) or procedure(s).

H. I certify that I have not been required to make any payments for an abortion or any medical service before the expiration of 24 hours after I received the written materials listed in paragraph C, or 24 hours after the time and date listed on the confirmation form if the information described in paragraph C was viewed from the state of

Michigan internet website.".

(d) Make available to physicians through the board and the Michigan board of osteopathic medicine and surgery, and to any person upon request, the copies of medically accurate depictions, illustrations, or photographs described in subdivision (a), the written standardized summaries described in subdivision (b), the acknowledgment and consent form described in subdivision (c), the prenatal care and parenting information pamphlet described in section 9161, the pregnancy certification form described in subdivision (f), and the materials regarding coercion to abort described in subdivision (i).

(e) In developing the written standardized summaries for abortion procedures under subdivision (b), include in the summaries only medication that has been approved by the United States Food and Drug Administration for use in performing an abortion.

(f) Develop, draft, and print a certification form to be signed by a local health department representative at the time and place a patient has a pregnancy confirmed, as requested by the patient, verifying the date and time the pregnancy is confirmed.

(g) Develop, operate, and maintain an internet website that allows a patient considering an abortion to review the information required in subsection (3)(c) through (f). After the patient reviews the required information, the department of health and human services shall ensure that a confirmation form can be printed by the patient from the internet website that will verify the time and date the information was reviewed. A confirmation form printed under this subdivision becomes invalid 14 days after the date and time printed on the confirmation form.

(h) Include on the informed consent internet website operated under subdivision (g) a list of health care providers, facilities, and clinics that offer to perform ultrasounds free of charge. The list must be organized geographically and include the name, address, and telephone number of each health care provider, facility, and clinic.

(i) After considering the standards and recommendations of the Joint Commission on Accreditation of Healthcare Organizations, the Michigan Domestic and Sexual Violence Prevention and Treatment Board, the Michigan Coalition to End Domestic and Sexual Violence or successor organization, and the American Medical Association, do all of the following:

(i) Develop, draft, and print or make available in printable format, in nontechnical English, Arabic, and Spanish, a notice that is required to be posted in facilities and clinics under section 17015a. The notice must be at least 8-1/2 inches by 14 inches, be printed in at least 44-point type, and contain at a minimum all of the following:

(A) A statement that it is illegal under Michigan law to coerce an individual to have an abortion.

(B) A statement that help is available if an individual is being threatened or intimidated; is being physically, emotionally, or sexually harmed; or feels afraid for any reason.

(C) The telephone number of at least 1 domestic violence hotline and 1 sexual assault hotline.

(ii) Develop, draft, and print or make available in printable format, in nontechnical English, Arabic, and Spanish, a prescreening summary on prevention of coercion to abort that, at a minimum, contains the information required under subparagraph (i) and notifies the patient that an oral screening for coercion to abort will be conducted before giving written consent to obtain an abortion.

(iii) Develop, draft, and print screening and training tools and accompanying training materials to be utilized by a physician or qualified person assisting the physician while performing the coercion to abort screening required under section 17015a. The screening tools must instruct the physician or qualified person assisting the physician to orally communicate information to the patient regarding coercion to abort and to document the findings from the coercion to abort screening in the patient's medical record.

(iv) Develop, draft, and print protocols and accompanying training materials to be utilized by a physician or a qualified person assisting the physician if a patient discloses coercion to abort or that domestic violence is occurring, or both, during the coercion to abort screening. The protocols must instruct the physician or qualified person assisting the physician to do, at a minimum, all of the following:

(A) Follow the requirements of section 17015a as applicable.

(B) Assess the patient's current level of danger.

(C) Explore safety options with the patient.

(D) Provide referral information to the patient regarding law enforcement and domestic violence and sexual assault support organizations.

(E) Document any referrals in the patient's medical record.

(12) A physician's duty to inform the patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would possess.

(13) A written consent form meeting the requirements set forth in this section and signed by the patient is presumed valid. The presumption created by this subsection may be rebutted by evidence that establishes, by a preponderance of the evidence, that consent was obtained through fraud, negligence, deception, misrepresentation, coercion, or duress.

(14) A completed certification form described in subsection (11)(f) that is signed by a local health department representative is presumed valid. The presumption created by this subsection may be rebutted by evidence that establishes, by a preponderance of the evidence, that the physician who relied upon the certification had actual

knowledge that the certificate contained a false or misleading statement or signature.

(15) This section does not create a right to abortion.

(16) Notwithstanding any other provision of this section, a person shall not perform an abortion that is prohibited by law.

(17) If any portion of this act or the application of this act to any person or circumstances is found invalid by a court, that invalidity does not affect the remaining portions or applications of the act that can be given effect without the invalid portion or application, if those remaining portions are not determined by the court to be inoperable.

(18) Upon a patient's request, a local health department shall comply with the following:

(a) Provide a pregnancy test for that patient to confirm the pregnancy as required under subsection (3)(a) and determine the probable gestational stage of the fetus. The local health department need not comply with this subdivision if the requirements of subsection (3)(a) have already been met.

(b) If a pregnancy is confirmed, ensure that the patient is provided with a completed pregnancy certification form described in subsection (11)(f) at the time the information is provided.

(19) The identity and address of a patient who is provided information or who consents to an abortion pursuant to this section is confidential and is subject to disclosure only with the consent of the patient or by judicial process.

(20) A local health department with a file containing the identity and address of a patient described in subsection (19) who has been assisted by the local health department under this section shall do both of the following:

(a) Only release the identity and address of the patient to a physician or qualified person assisting the physician in order to verify the receipt of the information required under this section.

(b) Destroy the information containing the identity and address of the patient within 30 days after assisting the patient under this section.

History: Add. 1993, Act 133, Eff. Apr. 1, 1994 ;-- Am. 2000, Act 345, Eff. Mar. 28, 2001 ;-- Am. 2002, Act 685, Eff. Mar. 31, 2003 ;-- Am. 2006, Act 77, Imd. Eff. Mar. 24, 2006 ;-- Am. 2012, Act 499, Eff. Mar. 31, 2013 ;-- Am. 2023, Act 209, Eff. Feb. 13, 2024
Popular Name: Act 368
Popular Name: Informed Consent

333.17015a Coercion; screening; protocols; report; availability of publications about violence against women; right to abortion not created.

Sec. 17015a.

(1) At the time a patient first presents at a private office, freestanding surgical outpatient facility, or other facility or clinic in which abortions are performed for the purpose of obtaining an abortion, whether before or after the expiration of the 24-hour period described in section 17015(3), the physician or qualified person assisting the physician shall orally screen the patient for coercion to abort using the screening tools developed by the department under section 17015(11). The oral screening required under this subsection may occur before the requirements of section 17015(3) have been met with regard to that patient.

(2) If a patient discloses that she is the victim of domestic violence that does not include coercion to abort, the physician or qualified person assisting the physician shall follow the protocols developed by the department under section 17015(11).

(3) If a patient discloses coercion to abort, the physician or qualified person assisting the physician shall follow the protocols developed by the department under section 17015(11).

(4) If a patient who is under the age of 18 discloses domestic violence or coercion to abort by an individual responsible for the health or welfare of the minor patient, the physician or qualified person assisting the physician shall report that fact to a local child protective services office.

(5) A private office, freestanding surgical outpatient facility, or other facility or clinic in which abortions are performed shall post in a conspicuous place in an area of its facility that is accessible to patients, employees, and visitors the notice described in section 17015(11)(i). A private office, freestanding surgical outpatient facility, or other facility or clinic in which abortions are performed shall make available in an area of its facility that is accessible to patients, employees, and visitors publications that contain information about violence against women.

(6) This section does not create a right to abortion. Notwithstanding any other provision of this section, a person shall not perform an abortion that is prohibited by law.

History: Add. 2012, Act 499, Eff. Mar. 31, 2013
Popular Name: Act 368

333.17016-333.17017 Repealed. 2023, Act 209, Eff. Feb. 13, 2024.

Compiler's Notes: The repealed sections pertained to a prohibition on partial-birth abortions and physical examination and informed consent requirements before performing a medical abortion.
Popular Name: Act 368

333.17018 Needle electromyography; performance by licensed physician; delegation; nerve conduction tests; performance of electrodiagnostic studies by physical therapist, podiatrist, or chiropractor; payment.

Sec. 17018.

(1) Except as otherwise provided under this section, only an individual who is licensed as a physician shall perform needle electromyography or interpret nerve conduction tests. A physician shall not delegate the interpretation of nerve conduction tests to another individual unless that individual is licensed under this article to engage in the practice of medicine or osteopathic medicine and surgery. A physician shall not delegate the performance of needle electromyography to another individual unless that individual is licensed under this article to engage in the practice of medicine or osteopathic medicine and surgery or that individual is otherwise authorized under this section.

(2) In accordance with section 16215, a physician may delegate the performance of nerve conduction tests to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience if those tests are conducted under the direct supervision of a physician.

(3) A physical therapist who is licensed under this article and certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist on the effective date of this section may perform electrodiagnostic studies that are to be interpreted by a physician if he or she has been performing electrodiagnostic studies in this state on a consistent basis within the 5 years immediately preceding the effective date of this section. A physical therapist who is licensed under this article but is not certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist on the effective date of this section and who has been performing electrodiagnostic studies in this state on a consistent basis since before May 1, 2001 may continue to perform electrodiagnostic studies that are to be interpreted by a physician as long as he or she becomes certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist by December 31, 2007. As used in this subsection, "consistent basis" means at a minimum an annual average of 10 electrodiagnostic studies each month.

(4) A podiatrist who is licensed under this article and has successfully completed additional training in the performance and interpretation of electrodiagnostic studies that is satisfactory to his or her respective board may conduct electrodiagnostic studies that are within his or her scope of practice.

(5) A chiropractor who is licensed under this article and has successfully completed additional training in the performance and interpretation of electrodiagnostic studies that is satisfactory to his or her respective board may conduct nerve conduction tests that are within his or her scope of practice.

(6) This section does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual authorized to conduct electrodiagnostic studies under this section.

History: Add. 2005, Act 264, Eff. Mar. 30, 2006
Popular Name: Act 368

333.17020 Genetic test; informed consent.

Sec. 17020.

(1) Except as otherwise provided for a test performed under section 5431 and except as otherwise provided by law, beginning upon the expiration of 6 months after the effective date of the amendatory act that added this section, a physician or an individual to whom the physician has delegated authority to perform a selected act, task, or function under section 16215 shall not order a presymptomatic or predictive genetic test without first obtaining the written, informed consent of the test subject, pursuant to this section.

(2) For purposes of subsection (1), written, informed consent consists of a signed writing executed by the test subject or the legally authorized representative of the test subject that confirms that the physician or the individual acting under the delegatory authority of the physician has explained, and the test subject or the legally authorized representative of the test subject understands, at a minimum, all of the following:

(a) The nature and purpose of the presymptomatic or predictive genetic test.

(b) The effectiveness and limitations of the presymptomatic or predictive genetic test.

(c) The implications of taking the presymptomatic or predictive genetic test, including, but not limited to, the medical risks and benefits.

(d) The future uses of the sample taken from the test subject in order to conduct the presymptomatic or predictive genetic test and the information obtained from the presymptomatic or predictive genetic test.

(e) The meaning of the presymptomatic or predictive genetic test results and the procedure for providing notice of the results to the test subject.

(f) Who will have access to the sample taken from the test subject in order to conduct the presymptomatic or predictive genetic test and the information obtained from the presymptomatic or predictive genetic test, and the test subject's right to confidential treatment of the sample and the information.

(3) Within 6 months after the effective date of the amendatory act that added this section, the department of community health, in consultation with the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, at least 1 physician who is board certified by the American board of medical genetics, and appropriate professional organizations, shall develop and distribute a model informed consent form for purposes of this section that practitioners may adopt. The department of community health shall include in the model form at least all of the information required under subsection (2). The department of community health shall distribute the model form to physicians and other individuals subject to this section upon request and at no charge. The department of community health shall review the model form at least annually for 5 years after the first model form is distributed, and shall revise the model form if necessary to make the form reflect the latest developments in medical genetics.

(4) The department of community health, in consultation with the entities described in subsection (3), may also develop and distribute a pamphlet that provides further explanation of the information included in the model informed consent form.

(5) If a test subject or his or her legally authorized representative signs a copy of the model informed consent form developed and distributed under subsection (3), the physician or individual acting under the delegatory authority of the physician shall give the test subject a copy of the signed informed consent form and shall include the original signed informed consent form in the test subject's medical record.

(6) If a test subject or his or her legally authorized representative signs a copy of the model informed consent form developed and distributed under subsection (3), the test subject is barred from subsequently bringing a civil action for damages against the physician, or an individual to whom the physician delegated the authority to perform a selected act, task, or function under section 16215, who ordered the presymptomatic or predictive genetic test, based on failure to obtain informed consent for the presymptomatic or predictive genetic test.

(7) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would know.

(8) Except as otherwise provided in subsection (9), as used in this section:

(a) "Genetic information" means information about a gene, gene product, or inherited characteristic which information is derived from a genetic test.

(b) "Genetic test" means the analysis of human DNA, RNA, chromosomes, and those proteins and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. A genetic test must be generally accepted in the scientific and medical communities as being specifically determinative for the presence, absence, or mutation of a gene or chromosome in order to qualify under this definition. Genetic test does not include a routine physical examination or a routine analysis, including, but not limited to, a chemical analysis, of body fluids, unless conducted specifically to determine the presence, absence, or mutation of a gene or chromosome.

(c) "Predictive genetic test" means a genetic test performed for the purpose of predicting the future probability that the test subject will develop a genetically related disease or disability.

(d) "Presymptomatic genetic test" means a genetic test performed before the onset of clinical symptoms or indications of disease.

(9) For purposes of subsection (8)(b), the term "genetic test" does not include a procedure performed as a

component of biomedical research that is conducted pursuant to federal common rule under 21 C.F.R. parts 50 and 56 and 45 C.F.R. part 46.

History: Add. 2000, Act 29, Imd. Eff. Mar. 15, 2000
Popular Name: Act 368

333.17021 Michigan board of medicine; creation; membership; limitation on powers and duties.

Sec. 17021.

(1) The Michigan board of medicine is created in the department and consists of the following 19 voting members who meet the requirements of part 161:
(a) Ten physicians.
(b) One physician's assistant.
(c) One genetic counselor. However, the governor shall not appoint a genetic counselor member to the board until there are only 7 public members of the board under subdivision (d).
(d) Seven public members. However, if there are 8 public members of the board on the effective date of the amendatory act that added this sentence, each public member of the board may continue in office until he or she resigns or otherwise vacates the office or until the expiration of his or her term.
(2) Except as otherwise provided in this article, the board of medicine does not have the powers and duties vested in the task force by sections 17060 to 17084.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017 ;-- Am. 2018, Act 624, Eff. Mar. 28, 2019
Popular Name: Act 368

333.17025 Joint task force; creation; membership.

Sec. 17025.

A joint task force is created for the health profession subfields licensed under this part. The task force shall consist of the following members, who shall meet the requirements of part 161:
(a) One member each from the board of medicine, the board of osteopathic medicine and surgery, and the board of podiatric medicine and surgery holding a license other than a health profession subfield license.
(b) Until June 30, 2010, 5 physician's assistants. Beginning July 1, 2010, 7 physician's assistants.
(c) Three public members.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1980, Act 146, Imd. Eff. June 5, 1980 ;-- Am. 2006, Act 161, Eff. Nov. 26, 2006 ;-- Am. 2010, Act 79, Imd. Eff. May 20, 2010
Popular Name: Act 368

333.17026 Terms of office.

Sec. 17026.

The terms of office of individual members of the board and task force created under this part, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: Add. 2006, Act 385, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.17029 Standards of medical practice for medical services involving vaginal or anal penetration; promulgation of rules.

Sec. 17029.

The department may promulgate rules that provide guidance to licensees on generally accepted standards of medical practice for medical services involving vaginal or anal penetration, including internal pelvic floor treatments but excluding medical services that primarily relate to a patient's urological, gastrointestinal, reproductive, gynecological, or sexual health, that are performed to measure a patient's temperature, or that are performed for the purpose of rectally administering a drug or medicine. If the department promulgates rules under this section, the department shall consult with appropriate professional associations and other interested stakeholders.

History: Add. 2023, Act 62, Eff. Oct. 10, 2023
Popular Name: Act 368

333.17030 Clinical academic limited license; requirements; annual renewal; duration of practice.

Sec. 17030.

(1) A clinical academic limited license granted by the board under section 16182(2)(c) for the practice of medicine shall require that the individual practice only for an academic institution and under the supervision of 1 or more physicians fully licensed under this part.

(2) A clinical academic limited license granted by the board under section 16182(2)(c) for the practice of medicine is renewable annually, but an individual shall not engage in the practice of medicine under 1 or more clinical academic limited licenses for more than 5 years.

History: Add. 1990, Act 248, Imd. Eff. Oct. 12, 1990
Popular Name: Act 368

333.17031 Condition for more than limited licensure; requirements for full license to practice medicine; filing and contents of written statement; civil or criminal liability; rebuttable presumption; applicability to clinical academic limited license.

Sec. 17031.

(1) Except as provided in subsection (2), an applicant, in addition to completing the requirements for the degree in medicine, shall complete a period of postgraduate education to attain proficiency in the practice of the profession, as prescribed by the board in rules, as a condition for more than limited licensure.

(2) The board may grant a full license to practice medicine to an applicant who has completed the requirements for a degree in medicine at a medical school located outside the United States or Canada if, except as provided in subsection (4), the applicant demonstrates to the board all of the following:

(a) That the applicant has engaged in the practice of medicine for not less than 10 years after completing the requirements for a degree in medicine.

(b) That the applicant has completed not less than 3 years of postgraduate clinical training in an institution that has an affiliation with a medical school that is listed in a directory of medical schools published by the World Health Organization as approved by the board.

(c) That the applicant has achieved a score determined by the board to be a passing score on an initial medical licensure examination approved by the board.

(d) That the applicant has safely and competently practiced medicine under a clinical academic limited license granted by the board under this article for 1 or more academic institutions located in this state for not less than the 2 years immediately preceding the date of application for a license under this subsection, during which time the applicant functioned not less than 800 hours per year in the observation and treatment of patients.

(3) An applicant who is required to meet the requirements of subsection (2)(d) shall file with the board a written statement from each academic institution upon which the applicant relies to satisfy that subsection. The statement shall indicate, at a minimum, that the applicant functioned for the academic institution in the observation and treatment of patients not less than 800 hours per year and that in so doing the applicant practiced medicine safely and competently. A person who in good faith makes a written statement that is filed under this subsection is not civilly or criminally liable for that statement. There is a rebuttable presumption that a person who makes a written statement that is filed under this subsection has done so in good faith.

(4) Subsection (2)(c) and (d) do not apply to an applicant who was granted a clinical academic limited license after January 1, 2011 but before January 1, 2017 and who has continuously held a license to practice medicine from the effective date of the amendatory act that added this subsection through the date of application for a full license under subsection (2).

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1990, Act 248, Imd. Eff. Oct. 12, 1990 ;-- Am. 2002, Act 643, Imd. Eff. Dec. 23, 2002 ;-- Am. 2018, Act 463, Eff. Mar. 27, 2019
Popular Name: Act 368

333.17033 Renewal of license; evidence required; completion of hours or courses in pain and symptom management as continuing education; rules.

Sec. 17033.

(1) Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 3 years immediately preceding application for renewal the licensee has attended continuing education courses or programs approved by the board totaling not less than 150 hours in subjects related to the practice of medicine including, but not limited to, medical ethics and designed to further educate licensees.

(2) As required under section 16204, the board shall promulgate rules requiring each applicant for license renewal to complete as part of the continuing education requirement of subsection (1) an appropriate number of hours or courses in pain and symptom management.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986 ;-- Am. 1994, Act 234, Imd. Eff. June 30, 1994
Popular Name: Act 368

333.17040-333.17047 Repealed. 1990, Act 247, Imd. Eff. Oct. 12, 1990.

Compiler's Notes: The repealed sections pertained to supervision or employment of physician's assistants.
Popular Name: Act 368

333.17047 Practice as physician's assistant; practice agreement.

Sec. 17047.

(1) A physician's assistant shall not engage in the practice as a physician's assistant except under the terms of a practice agreement that meets the requirements of this section.

(2) A practice agreement must include all of the following:

(a) A process between the physician's assistant and participating physician for communication, availability, and

decision making when providing medical treatment to a patient. The process must utilize the knowledge and skills of the physician's assistant and participating physician based on their education, training, and experience.

(b) A protocol for designating an alternative physician for consultation in situations in which the participating physician is not available for consultation.

(c) The signature of the physician's assistant and the participating physician.

(d) A termination provision that allows the physician's assistant or participating physician to terminate the practice agreement by providing written notice at least 30 days before the date of termination.

(e) Subject to section 17048, the duties and responsibilities of the physician's assistant and participating physician. The practice agreement shall not include as a duty or responsibility of the physician's assistant or participating physician an act, task, or function that the physician's assistant or participating physician is not qualified to perform by education, training, or experience and that is not within the scope of the license held by the physician's assistant or participating physician.

(f) A requirement that the participating physician verify the physician's assistant's credentials.

(3) The number of physician's assistants in a practice agreement with a participating physician and the number of individuals to whom a physician has delegated the authority to perform acts, tasks, or functions are subject to section 16221.

History: Add. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.17048 Prohibiting or restricting delegation of medical care service or requiring higher levels of supervision; rules concerning prescribing of drugs; organization as professional service corporation or professional limited liability company; shareholders.

Sec. 17048.

(1) Except for a medical care service within a practice agreement, to the extent that a particular selected medical care service requires extensive medical training, education, or ability or poses serious risks to the health and safety of patients, the board may prohibit or otherwise restrict the delegation of that medical care service or may require higher levels of supervision. To the extent that a particular medical care service requires extensive training, education, or ability or poses serious risks to the health or safety of patients, the board may prohibit or otherwise restrict that medical care service within a practice agreement.

(2) For purposes of section 17076(2) and (3), the department, in consultation with the board, may promulgate rules concerning the prescribing of drugs by a physician's assistant. Subject to section 17076, the rules may define the drugs or classes of drugs that a physician's assistant may not prescribe and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws.

(3) Beginning on July 19, 2010, if 1 or more individuals licensed under part 170 to engage in the practice of medicine, licensed under part 175 to engage in the practice of osteopathic medicine and surgery, or licensed under part 180 to engage in the practice of podiatric medicine and surgery, and 1 or more physician's assistants organize a professional service corporation under section 4 of former 1962 PA 192, a professional corporation under section 284 of the business corporation act, 1972 PA 284, MCL 450.1284, or a professional limited liability company under section 904 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4904, the physicians who are parties to a practice agreement with the physician's assistants shall be shareholders in the same professional service corporation or professional corporation or members in the same professional limited liability company as the physician's assistants and shall meet all of the applicable requirements of part 170, 175, or 180. If 1 or more physician's assistants organized a professional service corporation under section 4 of former 1962 PA 192, a professional corporation under section 284 of the business corporation act, 1972 PA 284, MCL 450.1284, or a professional limited liability company under section 904 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4904, before July 19, 2010 that has only physician's assistants as shareholders or members, the physicians who are parties to a practice agreement with the physician's assistants shall meet all of the applicable requirements of part 170, 175, or 180.

(4) In addition to the requirements of section 17068 and beginning on July 19, 2010, the department shall include on the form used for renewal of licensure a space for a physician's assistant to disclose whether he or she is a shareholder in a professional service corporation under section 4 of former 1962 PA 192, or a member in a professional limited liability company under section 904 of the Michigan limited liability company act, 1993 PA 23, MCL 450.4904, that was organized before July 19, 2010. A physician's assistant who is a shareholder in a professional service corporation or a member in a professional limited liability company described in this subsection

shall disclose all of the following in the form used for renewal of licensure provided by the department:

(a) Whether any individuals licensed under part 170 to engage in the practice of medicine, licensed under part 175 to engage in the practice of osteopathic medicine and surgery, or licensed under part 180 to engage in the practice of podiatric medicine and surgery are shareholders in the professional service corporation or members in the professional limited liability company.

(b) The name and license number of the individual licensed under part 170 to engage in the practice of medicine, licensed under part 175 to engage in the practice of osteopathic medicine and surgery, or licensed under part 180 to engage in the practice of podiatric medicine and surgery who is a party to a practice agreement with the physician's assistant.

(c) Whether the individual licensed under part 170 to engage in the practice of medicine, licensed under part 175 to engage in the practice of osteopathic medicine and surgery, or licensed under part 180 to engage in the practice of podiatric medicine and surgery disclosed in subdivision (b) is a shareholder in the same professional service corporation or member in a professional limited liability company as the physician's assistant.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990 ;-- Am. 1996, Act 355, Imd. Eff. July 1, 1996 ;-- Am. 2010, Act 124, Imd. Eff. July 19, 2010 ;-- Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011 ;-- Am. 2012, Act 618, Imd. Eff. Jan. 9, 2013 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368
Admin Rule: R 338.6101 et seq. of the Michigan Administrative Code.

333.17049 Practice agreement; designation of physician; countersigning order or signing official form not required.

Sec. 17049.

(1) A group of physicians practicing other than as sole practitioners may designate 1 or more physicians in the group to enter into a practice agreement under section 17047.

(2) Notwithstanding any law or rule to the contrary, a physician is not required to countersign orders written in a patient's clinical record by a physician's assistant with whom the physician has a practice agreement. Notwithstanding any law or rule to the contrary, a physician is not required to sign an official form that lists the physician's signature as the required signatory if that official form is signed by a physician's assistant with whom the physician has a practice agreement.

History: Add. 1990, Act 247, Imd. Eff. Oct. 12, 1990 ;-- Am. 2004, Act 512, Imd. Eff. Jan. 3, 2005 ;-- Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.17050 Prohibiting physician or physician's assistant from entering into practice agreement; grounds.

Sec. 17050.

In addition to its other powers and duties under this article, the board may prohibit a physician or a physician's assistant from entering into a practice agreement for any of the grounds set forth in section 16221.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368
Admin Rule: R 338.6101 et seq. of the Michigan Administrative Code.

333.17054 Criteria for licensure of physician's assistants and for evaluation of training programs;

recommendations.

Sec. 17054.

The board shall make written recommendations on criteria for the licensure of physician's assistants and on criteria for the evaluation of physician's assistants' training programs to the task force on physician's assistants.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17056 Exception.

Sec. 17056.

This part does not apply to a student in training to become a physician's assistant while performing duties assigned as part of the training.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17058 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.

Compiler's Notes: The repealed section pertained to powers and duties of task force.
Popular Name: Act 368

333.17060 Duties of department.

Sec. 17060.

The department, in consultation with the task force, shall do all of the following:

(a) Promulgate rules necessary for the implementation of its powers and duties under this part and may perform the acts and make the determinations necessary for the proper implementations of those powers and duties.

(b) Promulgate rules to establish the requirements for the education, training, or experience of physician's assistants for licensure in this state. The requirements must take into account nationally recognized standards for education, training, and experience and the desired utilization of physician's assistants. By January 14, 2017, the rules must include training standards for identifying victims of human trafficking. The training standards for identifying victims of human trafficking must apply for a physician's assistant license or registration renewal beginning with the first renewal cycle after the rules are promulgated and for an initial license or registration issued 5 or more years after the rules are promulgated.

(c) Grant licenses to applicants who meet the requirements of this part and the rules promulgated under this part for practice and use of the title of physician's assistant.

(d) Promulgate rules to establish criteria for the evaluation of programs for the education and training of physician's assistants for the purpose of determining whether graduates of the programs have the knowledge and skills requisite for practice and use of the title physician's assistant in this state as defined by this part and the rules promulgated under this part. The criteria established must be substantially consistent with nationally recognized standards for the education and training of physician's assistants. Until the criteria are established, the criteria developed by the advisory commission on physician's assistants shall remain in effect. The department shall consider and may use where appropriate the criteria established by professional associations, education accrediting bodies, or governmental agencies. In establishing criteria for the evaluation of education and training programs, the department may seek the advice of the boards and the department of education.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1980, Act 59, Imd. Eff. Apr. 1, 1980 ;-- Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986 ;-- Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990 ;-- Am. 2014, Act 343, Eff. Jan. 14, 2015 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368
Admin Rule: R 338.6101 et seq. of the Michigan Administrative Code.

333.17062 Applicant for licensure as physician's assistant; qualifications.

Sec. 17062.

An applicant for licensure as a physician's assistant shall meet the requirements of section 16174(a), (b), and (d) and be a graduate of a program for the training of physician's assistants approved by the task force or be a licensed, certified, registered, approved, or other legally recognized physician's assistant in another state with qualifications substantially equivalent to those established by the task force.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1980, Act 146, Imd. Eff. June 5, 1980 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.17064 Applicant for licensure as physician's assistant; examination required; waiver; nature of examination; use of national examination; discrimination prohibited; reciprocity; investigation; additional documentation or information.

Sec. 17064.

(1) To determine whether an applicant for initial licensure has the appropriate level of skill and knowledge as required by this part, the task force shall require the applicant to submit to an examination which shall include those subjects the general knowledge of which is commonly and generally required of a graduate of an accredited physician's assistants' program in the United States. The task force may waive the examination requirement for a graduate of an approved program if the applicant has taken a national examination and achieved a score acceptable to the task force as demonstrating the level of skill and knowledge required by this part. The task force may waive the examination for an applicant who is licensed, certified, registered, approved, or otherwise legally recognized as a physician's assistant in another state, when the task force determines that the other state has qualifications, including completion of a national or state approved examination for physician's assistants, that are substantially equivalent to those established by this part.

(2) The nature of an examination shall be determined by the task force and may include the use and acceptance of national examinations where appropriate. The use of examinations or the requirements for successful completion shall not permit discriminatory treatment of applicants.

(3) The task force shall provide for the recognition of the certification or experience consistent with this part acquired by physician's assistants in other states who wish to practice in this state.

(4) The task force may cause an investigation to be conducted when necessary to determine the qualifications of an applicant for licensure. An applicant may be required to furnish additional documentation and information upon a determination by the task force that the documentation or information is necessary to evaluate the applicant's qualifications.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.17066 Repealed. 2016, Act 379, Eff. Mar. 22, 2017.

Compiler's Notes: The repealed section pertained to design of standards and decisions regarding qualifications of physician's assistants.
Popular Name: Act 368

333.17068 Application by physician's assistant for licensure or renewal of licensure; form; requirements for relicensing; standards; temporary license.

Sec. 17068.

(1) A physician's assistant shall apply for licensure or renewal of licensure on a form provided by the department.

(2) A physician's assistant who has failed to renew a license may be relicensed upon showing that he or she meets the current requirements for licensure set forth in this part and rules promulgated under this part. In relicensing an individual under this section, the task force may establish standards for training, education, or experience equivalent to current educational and practice requirements. A temporary license under section 17072 may be issued pending the results of action taken under this subsection.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1988, Act 462, Eff. Sept. 1, 1989
Popular Name: Act 368
Admin Rule: R 388.6101 et seq. of the Michigan Administrative Code.

333.17070 Granting renewal; notice of denial; right to hearing.

Sec. 17070.

(1) If the applicant meets the requirements for renewal as set forth in this part or rules promulgated under this part, the task force shall direct the board to grant a renewal.

(2) If an applicant is determined by the task force not to have met the requirements for renewal, the applicant shall be notified in writing of the reasons for denial and shall have the right to a hearing.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17072 Certificate of licensure, temporary licensure, or renewal; issuance; contents; interim licensure; nonrenewable temporary license; display; pocket card; identification.

Sec. 17072.

(1) A certificate of licensure, temporary licensure, or renewal shall be issued by the department to an applicant who is granted licensure, temporary licensure, or renewal. A certificate issued under this part shall contain the full name of the individual licensed, a permanent individual number, and the date of expiration.

(2) The task force shall direct the board to grant interim licensure to an unlicensed individual who was employed as a physician's assistant on December 29, 1977, to be effective until the task force formally issues or denies a license to the physician's assistant pursuant to this part and the rules promulgated under this part. During this period the task force may direct the board to grant interim licensure to a new applicant who has graduated from a program training physician's assistants.

(3) The task force may direct the board to grant a nonrenewable temporary license to an applicant who meets all requirements for licensure except examination, if required. The task force shall make its decision within 30 days after submission of a complete application or the conclusion of a department investigation, whichever is later. The temporary license shall be valid for a period determined by the task force, but not to exceed 1 year, or until the results of a required examination are made available, whichever is sooner. The department shall issue a certificate of temporary licensure within 15 days after the board grants the license.

(4) A physician's assistant licensed under this part shall publicly display the current certificate of licensure, temporary license, or renewal permanently in that individual's place of practice, if feasible, and shall have available for inspection a pocket card issued by the department containing the essential information of the license. While working, the individual shall wear appropriate identification, clearly indicating that the individual is a physician's assistant.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979
Popular Name: Act 368

333.17074 Prohibited undertakings, representations, and services by physician's assistant; permissible services.

Sec. 17074.

(1) A physician's assistant shall not undertake or represent that he or she is qualified to undertake provision of a medical care service that he or she knows or reasonably should know to be outside his or her competence or is prohibited by law.

(2) A physician's assistant shall not:

(a) Perform acts, tasks, or functions to determine the refractive state of a human eye or to treat refractive anomalies of the human eye, or both.

(b) Determine the spectacle or contact lens prescription specifications required to treat refractive anomalies of the human eye, or determine modification of spectacle or contact lens prescription specifications, or both.

(3) A physician's assistant may perform routine visual screening or testing, postoperative care, or assistance in the care of medical diseases of the eye under a practice agreement.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990 ;-- Am. 2006, Act 161, Eff. Nov. 26, 2006 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.17076 Physician's assistant; making calls or going on rounds in accordance with practice agreement; prescribing drugs; ordering, receiving, and dispensing complimentary starter dose drugs.

Sec. 17076.

(1) A physician's assistant may make calls or go on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities in accordance with a practice agreement. Notwithstanding any law or rule to the contrary, a physician's assistant may make calls or go on rounds as provided in this subsection without restrictions on the time or frequency of visits by a physician or the physician's assistant.

(2) A physician's assistant who is a party to a practice agreement may prescribe a drug in accordance with procedures and protocols for the prescription established by rule of the department in consultation with the appropriate board. A physician's assistant may prescribe a drug, including a controlled substance that is included in schedules 2 to 5 of part 72. If a physician's assistant prescribes a drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that prescription. If a physician's assistant prescribes a drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that prescription.

(3) A physician's assistant may order, receive, and dispense complimentary starter dose drugs, including controlled substances that are included in schedules 2 to 5 of part 72. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. As used in this subsection, "complimentary starter dose" means that term as defined in section 17745. It is the intent of the legislature in enacting this subsection to allow a

pharmaceutical manufacturer or wholesale distributor, as those terms are defined in part 177, to distribute complimentary starter dose drugs to a physician's assistant, as described in this subsection, in compliance with section 503(d) of the federal food, drug, and cosmetic act, 21 USC 353.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990 ;-- Am. 1996, Act 355, Imd. Eff. July 1, 1996 ;-- Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368
Admin Rule: R 338.6101 et seq. of the Michigan Administrative Code.

333.17078 Physician's assistant; conformance to minimal standards of practice.

Sec. 17078.

A physician's assistant shall conform to minimal standards of acceptable and prevailing practice under this part, part 175, or part 180, as applicable.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990 ;-- Am. 2006, Act 161, Eff. Nov. 26, 2006 ;-- Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.17082 Investigations and evaluations by task force; purpose; revision of criteria for education and training; continuation of program approval and criteria.

Sec. 17082.

(1) The task force may conduct or cause to be conducted, investigations and evaluations necessary to determine whether a program meets the criteria established by this part and rules promulgated under this part.

(2) At times the task force determines appropriate, the task force may revise the criteria for the education and training of graduates to determine whether the graduates meet the requirements for practice and use of the title physician's assistant in this state.

(3) A program approval of the director of public health and the criteria developed or recommended by the physician's assistant's advisory commission permitted under section 20 of former Act No. 420 of the Public Acts of 1976 shall be continued for the duration of its initial approval, unless disapproved by the task force.

History: 1978, Act 368, Eff. Sept. 30, 1978
Compiler's Notes: Act 420 of 1976, referred to in this section, was repealed by Act 368 of 1978 .
Popular Name: Act 368

333.17084 Register of programs; contents; public inspection.

Sec. 17084.

The department shall keep a register of programs meeting the criteria established by the task force. The register of programs shall include the full title of the program, the institution of which it is a part, and its address. A copy of the register or the information contained in the register shall be available for public inspection.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17086-333.17088 Repealed. 1993, Act 79, Eff. Apr. 1, 1994.

Compiler's Notes: The repealed sections pertained to procedures for maintaining disciplinary action; denying, suspending, limiting, or revoking a license or renewal; examinations; hearings; and application for reinstatement.
Popular Name: Act 368

333.17091 Rules.

Sec. 17091.

(1) The department, in consultation with the board, shall promulgate rules that specify the minimum standards for licensure, temporary licensure, and license renewal of genetic counselors.

(2) In addition to any other requirements of this article, the board shall perform other functions and duties as necessary to carry out the regulation of genetic counselors under this part.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019
Popular Name: Act 368

333.17092 Genetic counselor; licensure requirements.

Sec. 17092.

To be licensed as a genetic counselor under this part, an individual shall do all of the following:

(a) Submit an application prescribed by the board.

(b) Pay the fee prescribed in section 16338.

(c) Provide satisfactory evidence of having current certification through a nationally recognized certifying agency for genetic counselors or medical geneticists approved by the board.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019
Popular Name: Act 368

333.17093 Practice of genetic counseling; license required.

Sec. 17093.

Beginning 1 year after the effective date of the rules promulgated under section 17091, an individual shall not engage in the practice of genetic counseling unless he or she is licensed as a genetic counselor under this part.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019
Popular Name: Act 368

333.17094 Genetic counselor; temporary license; interim requirements.

Sec. 17094.

A temporary licensed genetic counselor shall work under the supervision of a qualified supervisor at all times during which the temporary licensed genetic counselor engages in the practice of genetic counseling.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019
Popular Name: Act 368

333.17095 Use of titles, words, or initials; applicability of sections 17091 to 17096.

Sec. 17095.

(1) Except as otherwise provided in subsection (2), an individual who is not licensed as a genetic counselor under this part shall not use in connection with his or her name or place of business, the title "genetic counselor", "licensed genetic counselor", "gene counselor", "genetic consultant", "genetic associate" or any words, letters, abbreviations, or insignia indicating or implying that an individual holds a license to engage in the practice of genetic counseling under this part.

(2) Sections 17091 to 17096 do not apply to the following individuals:

(a) An individual who is certified by the American Board of Medical Genetics and Genomics as a doctor of philosophy medical geneticist, or holds an equivalent certification as determined by the board.

(b) An individual who is licensed by this state to engage in the practice of a health profession other than the practice of genetic counseling when acting within the scope of the individual's health profession and doing work of a nature consistent with the individual's education and training.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019
Popular Name: Act 368

333.17096 Renewal of license; evidence required.

Sec. 17096.

To obtain a license renewal as a genetic counselor under this part, a licensee shall present satisfactory evidence to the board that in the period since the license was issued or last renewed the licensee has maintained certification through a nationally recognized certifying agency for genetic counselors or medical geneticists approved by the board.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019
Popular Name: Act 368

333.17097 Third party reimbursement or mandated worker's compensation benefits.

Sec. 17097.

This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual who is licensed as a genetic counselor under this part.

History: Add. 2018, Act 624, Eff. Mar. 28, 2019
Popular Name: Act 368

PART 171.

333.17101 Definitions; principles of construction.

Sec. 17101.

(1) As used in this part:

(a) "Appropriate health professional", for the purposes of referral, consultation, or collaboration with a midwife under this part, means any of the following:

(i) A physician.

(ii) A certified nurse midwife.

(iii) As identified in rules promulgated under section 17117, another appropriate health professional licensed, registered, or otherwise authorized to engage in a health profession under this article.

(b) "Certified nurse midwife" means a registered professional nurse licensed under part 172 who has been granted a specialty certification in the health profession specialty field of nurse midwifery by the Michigan board of nursing under section 17210.

(c) "Health care provider" means an individual who is licensed or registered under this article.

(d) "Midwife" means an individual licensed under this part to engage in the practice of midwifery.

(e) "Physician" means an individual licensed to engage in the practice of medicine under part 170 or the practice of osteopathic medicine and surgery under part 175.

(f) "Practice of midwifery", subject to subsection (2), means providing perinatal care that is consistent with a midwife's training, education, and experience, to individuals and neonates during the antepartum, intrapartum, and postpartum periods.

(2) For purposes of this part, practice of midwifery does not include either of the following:

(a) The practice of medicine or osteopathic medicine and surgery.

(b) The practice of nursing, including the practice of nursing with a specialty certification in the health profession specialty field of nurse midwifery under part 172.

(3) In addition to the definitions of 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.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017 ;-- Am. 2024, Act 252, Eff. Apr. 2, 2025
Popular Name: Act 368

333.17103 Use of titles, words, or initials.

Sec. 17103.

Beginning on the effective date of rules promulgated under section 17117, an individual shall not use the titles "licensed midwife" or "l.m.", or similar words or initials that indicate that the individual is licensed as a midwife, unless the individual is licensed under this part.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.17105 Practice of midwifery; license required; additional exemptions.

Sec. 17105.

(1) Beginning on the effective date of rules promulgated under section 17117, an individual shall not engage in the practice of midwifery unless licensed under this part or otherwise authorized by this article.

(2) A midwife shall not perform an act, task, or function within the practice of midwifery unless he or she is

trained to perform the act, task, or function and the performance of that act, task, or function is consistent with the rules promulgated under section 17117.

(3) In addition to the exemptions from licensure under section 16171, subsection (1) does not prevent any of the following:

(a) An individual licensed, registered, or certified under any other part or act from performing activities that are considered to be within the practice of midwifery if those activities are within the individual's scope of practice and if the individual does not use the titles protected under section 17103.

(b) Subject to section 16215, an employee or other individual who is assisting a midwife and who is under the midwife's supervision from performing activities or functions that are delegated by the midwife, that are nondiscretionary, that do not require the exercise of professional judgment for their performance, and that are within the midwife's authority to perform.

(c) An individual from performing activities that are within the practice of midwifery if those activities are performed under the direct and immediate supervision of an appropriate health professional while engaged in any of the following:

(i) Completing a portfolio evaluation process of the North American Registry of Midwives or an organization that the board determines is a successor organization.

(ii) Participating as a student attending a midwifery education program that is accredited by the Midwifery Education and Accreditation Council or another accrediting organization approved by the board.

(d) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a midwife.

(e) Services provided by a religious practitioner if that religious practitioner does not hold himself or herself out to the public as a midwife who is licensed to engage in the practice of midwifery in this state and does not use any of the titles protected under section 17103.

(f) Services provided by a member of a bona fide church or religious denomination if all of the following are met:

(i) The services are provided to another member of that church or denomination and that other member is an adherent of the established tenets or teachings of that church or denomination and relies on treatment by prayer or spiritual means only, in accordance with the creed or tenets of that church or denomination.

(ii) The individual providing the services does not receive a fee for those services. For purposes of this subparagraph, a voluntary contribution is not considered a fee for the services provided by that individual.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.17107 Transfer of care to physician or hospital; protocol.

Sec. 17107.

(1) At the inception of care, a midwife shall establish a protocol for transfer of care to a physician or to a hospital that is specific to that patient.

(2) For purposes of subsection (1), the board shall identify or create a standard form, and recommend use of the standard form, to collect information on a patient whose care is transferred, either temporarily or permanently, to a hospital or a physician.

(3) The board shall promulgate rules that require a midwife to report a patient's data to the MANA Statistical Registry maintained by the Midwives Alliance of North America, or a similar registry maintained by a successor organization approved by the board, unless the patient refuses to consent to the reporting of his or her data.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.17109 Informed consent.

Sec. 17109.

A midwife shall obtain informed consent from a patient at the inception of care and continuing throughout the

patient's care.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.17110 Liability of health care worker for act or omission of midwife.

Sec. 17110.

A health care provider who provides care to a patient of a midwife who is licensed under this part is not liable in a civil action for personal injury or death resulting from an act or omission by the midwife, unless the professional negligence or malpractice of the health care provider was a proximate cause of the injury or death.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.17111 Midwife; prohibited acts; administration of prescription drugs or medications; rules.

Sec. 17111.

(1) A midwife shall not do any of the following:
(a) Except as provided in subsection (2), administer prescription drugs or medications.
(b) Use vacuum extractors or forceps.
(c) Prescribe medications.
(d) Perform surgical procedures other than episiotomies or repairs of perineal lacerations.
(e) Any other act, task, or function prohibited in rules promulgated under this part.
(2) Beginning on the effective date of the rules promulgated under subsection (3), a midwife who has appropriate pharmacology training as established by rule by the board, and who holds a standing prescription from a health care provider with prescriptive authority, may administer any of the following in accordance with the rules promulgated under subsection (3):
(a) Prophylactic vitamin K to a newborn, either orally or through intramuscular injection.
(b) Antihemorrhagic agents to a postpartum mother after the birth of the baby.
(c) Local anesthetic for the repair of lacerations to a mother.
(d) Oxygen to a mother or newborn.
(e) Prophylactic eye agent to a newborn.
(f) Prophylactic Rho(D) immunoglobulin to a mother.
(g) Agents for group B streptococcus prophylaxis, recommended by the federal centers for disease control and prevention, to a mother.
(h) Intravenous fluids, excluding blood products, to a mother.
(i) Any other drug or medication prescribed by a health care provider with prescriptive authority that is consistent with the scope of practice of midwifery and is authorized by the board by rule.
(3) The department, in consultation with the board, shall promulgate rules concerning the administration of prescription drugs or medications described in subsection (2) by midwives.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.17112 Obtaining supplies and devices, ordering and obtaining screening tests, and receiving reports of test results; classification as normal pregnancy, labor, delivery, postpartum period, or newborn period; rules; findings.

Sec. 17112.

(1) Beginning on the effective date of, and subject to, the rules described in section 17117, and if necessary to the practice of midwifery and consistent with the scope of practice of midwifery, a midwife may directly obtain supplies and devices, order and obtain screening tests including ultrasound tests, and receive verbal and written reports of the results of those tests.

(2) The department shall promulgate rules that include standards for the delineation of findings that preclude a woman or a newborn from being classified as having a normal pregnancy, labor, delivery, postpartum period, or newborn period. In promulgating the rules described in this subsection, the department shall consider any data, views, questions, and arguments submitted by the Michigan board of licensed midwifery, the Michigan board of medicine, and the Michigan board of osteopathic medicine and surgery.

(3) The finding described in subsection (2) shall form the basis for any requirements or restrictions imposed by the board on the practice of midwifery when providing care to women or newborns whose condition is classified as outside of normal.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.17113 Michigan board of licensed midwifery; creation; membership; terms.

Sec. 17113.

(1) The Michigan board of licensed midwifery is created in the department. The board consists of the following 12 members, each of whom must meet the requirements of part 161:

(a) Seven midwives.

(b) One certified nurse midwife.

(c) One physician who is board certified as an obstetrician-gynecologist.

(d) One physician who is board certified as a pediatrician.

(e) Two members of the general public, 1 of whom is a consumer of midwifery care.

(2) Except as otherwise provided in this article, the term of office of a member of the board is 4 years and expires on December 31 of the year in which the term expires. For members first appointed under this section, 5 members shall serve for 2 years, 4 members shall serve for 3 years, and 3 members shall serve for 4 years.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.17115 Licensure; requirements; credential.

Sec. 17115.

(1) If the department receives a complete application and payment of the fee prescribed in section 16326, the board shall grant a license under this part to the applicant if the applicant meets all of the following:

(a) Except as provided in subsection (2), he or she has completed an educational program or pathway accredited by the Midwifery Education and Accreditation Council or another accrediting organization approved by the board.

(b) He or she holds the credential of certified professional midwife from the North American Registry of Midwives or holds an equivalent credential from another midwifery credentialing program that is approved by the board under section 16148 and accredited by the National Commission for Certifying Agencies or another accrediting organization approved by the board.

(c) He or she successfully passes an examination approved by the department, in consultation with the board. If the education program described in subdivision (a) includes an examination that meets the requirements of section 16178(1), the board may accept passing of that examination as meeting the requirements of this subdivision.

(2) An applicant who holds the credential described in subsection (1)(b) before January 1, 2020, and has not completed the educational program or pathway described in subsection (1)(a), meets the requirement of subsection (1)(a) if he or she provides evidence that he or she holds a midwifery bridge certificate awarded by the North

American Registry of Midwives, or an equivalent credential from another midwifery credentialing program that is approved by the board under section 16148 and accredited by the National Commission for Certifying Agencies or another accrediting organization approved by the board.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.17116 Nonrenewable temporary license; term; failure to comply with requirements; application fee for initial license.

Sec. 17116.

(1) If the department receives a completed application and an application fee and temporary license fee described in section 16326, the board shall grant a nonrenewable temporary license under this part to an individual who holds a credential of certified professional midwife from a midwifery education program that does not meet the requirements of section 17115(1)(a). An individual who holds a temporary license under this section must hold a midwifery bridge certificate awarded by the North American Registry of Midwives, or an equivalent credential approved by the board, to qualify for a license when his or her temporary license expires.

(2) The term of a temporary license under this section is 24 months.

(3) An applicant who is granted a temporary license under this section is subject to all other requirements of this part and rules promulgated under this part, and the department may automatically void the temporary license if the applicant fails to comply with those requirements.

(4) An individual who paid an application fee under section 16326 in connection with an application for a temporary license under this section is not required to pay an application fee in connection with an application for an initial license under this part if the department receives the application within 60 days after the expiration of the temporary license.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.17117 Rules.

Sec. 17117.

(1) Within 24 months after the effective date of this part, the department, in consultation with the board, shall promulgate rules to do all of the following:

(a) Establish and implement the licensure program for the practice of midwifery under this part.

(b) Require the completion of continuing education for the practice of midwifery as a condition for license renewal. However, the rule shall allow the board to accept proof of a current credential under section 17115(1)(b) as meeting the requirements of this subdivision.

(c) Describe and regulate, limit, or prohibit the performance of acts, tasks, or functions by midwives. The department shall include rules that recognize and incorporate the requirements under section 17107 regarding the referral to and consultation with appropriate health professionals and ensure that those rules conform to national standards for the practice of midwifery as defined in section 17101.

(d) For purposes of section 17109, establish the process by which informed consent is obtained and ensure that the process conforms to national standards for the practice of midwifery as defined in section 17101. The process established for obtaining informed consent shall include at least all of the following:

(i) A requirement that at the inception of care for a client, the midwife must provide a copy of the rules promulgated by the department under this section.

(ii) A requirement that at the inception of care for a client, the midwife must orally and in writing disclose whether the midwife has malpractice liability insurance coverage and, if so, the policy limitations of that coverage.

(e) For purposes of establishing protocols for transfer of care under section 17107, establish the duties a midwife must perform if an emergency transfer to a hospital is necessary. Rules promulgated under this subdivision shall conform to nationally recognized guidelines on safe transfers.

(2) In addition to the authority to promulgate rules under section 16145 and subject to this section and section 16175, the department, in consultation with the board, may promulgate rules to supplement the requirements for licensure under this part, including the adoption of updated standards applicable to the practice of midwifery established by the North American Registry of Midwives or an organization that the board determines is a successor organization.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.17119 Individual licensed in another state; requirements.

Sec. 17119.

(1) The board may grant a license under this part to an individual who is licensed as a midwife in another state at the time of application if the applicant provides evidence satisfactory to the board and the department that all of the following are met:

(a) Subject to subsection (2), the applicant meets the requirements described in section 17115(1) and (2).

(b) There are no pending disciplinary proceedings against the applicant before a similar licensing agency of this or any other state or country.

(c) If sanctions have been imposed against the applicant by a similar licensing agency of this or any other state or country based upon grounds that are substantially similar to those under this article, as determined by the board, the sanctions are not in force at the time of the application.

(2) If an applicant is licensed as a midwife in a state that does not require completion of an educational program or pathway equivalent to section 17115(1)(a) for licensure, the department may determine that the applicant has met the requirements of subsection (1)(a) if he or she meets all of the following:

(a) The requirements of this part and rules promulgated under this part for licensure, except section 17115(1)(a).

(b) The requirements of section 17115(2), regardless of the date he or she obtained the credential of certified professional midwife described in section 17115(1)(b).

(3) The board may make an independent inquiry to determine whether an applicant meets the requirements described in subsection (1)(b) and (c).

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.17121 Initial or renewal licenses; term.

Sec. 17121.

(1) Except as provided in subsection (2) and section 17116, the department shall determine the term of initial or renewal licenses granted under this part.

(2) Until the application processing fee for a license under this part is reduced to $75.00 under section 16326, the term of an initial license under part 171 is 1 year. This subsection does not limit the department's authority under this section to establish a renewal cycle for licenses under this part regardless of the amount of the application fee under section 16326.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

333.17123 Third party reimbursement or worker's compensation benefits.

Sec. 17123.

This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed under this part.

History: Add. 2016, Act 417, Eff. Apr. 4, 2017
Popular Name: Act 368

Part 172
NURSING

333.17201 Definitions; principles of construction.

Sec. 17201.

(1) As used in this part:
(a) "Advanced practice registered nurse" or "a.p.r.n." means a registered professional nurse who has been granted a specialty certification under section 17210 in 1 of the following health profession specialty fields:
(i) Nurse midwifery.
(ii) Nurse practitioner.
(iii) Clinical nurse specialist.
(b) "Physician" means a physician who is licensed under part 170 or part 175.
(c) "Practice of nursing" means the systematic application of substantial specialized knowledge and skill, derived from the biological, physical, and behavioral sciences, to the care, treatment, counsel, and health teaching of individuals who are experiencing changes in the normal health processes or who require assistance in the maintenance of health and the prevention or management of illness, injury, or disability.
(d) "Practice of nursing as a licensed practical nurse" or "l.p.n." means the practice of nursing based on less comprehensive knowledge and skill than that required of a registered professional nurse and performed under the supervision of a registered professional nurse, physician, or dentist.
(e) "Registered professional nurse" or "r.n." means an individual who is licensed under this part to engage in the practice of nursing which scope of practice includes the teaching, direction, and supervision of less skilled personnel in the performance of delegated nursing activities.
(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in the code and part 161 contains definitions applicable to this part.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2016, Act 499, Eff. Apr. 9, 2017
Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Popular Name: Act 368

333.17208 Licensed practical nurse; health profession subfield.

Sec. 17208.

The practice of nursing as a licensed practical nurse is a health profession subfield of the practice of nursing.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17209 Renewal of license to practice as trained attendant; eligibility; â€œpractice as a trained

attendantâ€ defined; original license prohibited; licensed psychiatric attendant nurse considered licensed practical nurse.

Sec. 17209.

(1) After the effective date of this part, an individual licensed to practice as a trained attendant is eligible to apply to the board for a renewal of licensure pursuant to this article. For purposes of this section, "practice as a trained attendant" means the practice of nursing based on less comprehensive knowledge and skill than that required of a registered professional nurse or a licensed practical nurse and performed under supervision of a registered professional nurse or licensed physician or dentist. After the effective date of this part, the board shall not grant an original license to an applicant for licensure to practice as a trained attendant.

(2) After the effective date of this part, licensed psychiatric attendant nurse licenses shall be considered licensed practical nurse licenses. A licensed psychiatric attendant nurse shall have the same rights and duties as a licensed practical nurse under this part as consistent with the licensee's education and training.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17210 Registered professional nurse; issuance of specialty certification; qualifications; rules; scope of practice for nurse anesthetist; malpractice insurance required; definitions.

Sec. 17210.

(1) The Michigan board of nursing may grant a specialty certification to a registered professional nurse who has advanced training beyond that required for initial licensure, who has demonstrated competency through examination or other evaluative processes, and who practices in 1 of the following health profession specialty fields:

(a) Nurse midwifery.

(b) Nurse anesthetist.

(c) Nurse practitioner.

(d) Subject to subsection (2), clinical nurse specialist.

(2) The Michigan board of nursing shall promulgate rules establishing the qualifications for the training and competency of the health profession specialty field of clinical nurse specialist. The Michigan board of nursing shall not grant a specialty certification as a clinical nurse specialist under subsection (1) until after the effective date of the rules promulgated under this subsection.

(3) All of the following apply to a registered professional nurse who holds a specialty certification as a nurse anesthetist:

(a) In addition to performing duties within the scope of the practice of nursing, his or her scope of practice includes any of the following anesthesia and analgesia services if the services are performed in accordance with the American Association of Nurse Anesthetists Standards for Nurse Anesthesia Practice:

(i) Development of a plan of care.

(ii) Performance of all patient assessments, procedures, and monitoring to implement the plan of care or to address patient emergencies that arise during implementation of the plan of care.

(iii) Selection, ordering, or prescribing and the administration of anesthesia and analgesic agents, including pharmacological agents that are prescription drugs as defined in section 17708 or controlled substances. For purposes of this subparagraph, the authority of a registered professional nurse who holds a specialty certification as a nurse anesthetist to prescribe pharmacological agents is limited to pharmacological agents for administration to patients as described in subdivision (b), (c), or (d), and his or her authority does not include any activity that would permit a patient to self-administer, obtain, or receive pharmacological agents, including prescription drugs or controlled substances, outside of the facility in which the anesthetic or analgesic service is performed or beyond the perioperative, periobstetrical, or periprocedural period.

(b) If he or she meets both of the following requirements, he or she may provide the anesthesia and analgesia services described in subdivision (a) without supervision:

(i) He or she meets either of the following:

(A) He or she has practiced in the health profession specialty field of nurse anesthetist for 3 years or more and has practiced in that health profession specialty field in a health care facility for a minimum of 4,000 hours.

(B) He or she has a doctor of nurse anesthesia practice degree or doctor of nursing practice degree.

(ii) He or she is collaboratively participating in a patient-centered care team.

(c) He or she may provide the anesthesia and analgesia services described in subdivision (a) in a health care

facility if the health care facility has a policy in place under subsection (4) allowing for the provision of the anesthesia and analgesia services and ensuring that a qualified health care professional is immediately available in person or through telemedicine to address any urgent or emergent clinical concerns.

(d) The anesthesia and analgesia services described in subdivision (a) may be performed for and during the perioperative, periobstetrical, or periprocedural period.

(e) If he or she is practicing pain management in a freestanding pain clinic, he or she must be under the supervision of a physician.

(4) A health care facility may adopt policies relating to the provision of anesthesia and analgesia services. If a health care facility uses a registered professional nurse who holds a specialty certification as a nurse anesthetist to perform the anesthesia and analgesia services described in subsection (3) who is not employed by the health care facility, the health care facility shall ensure that the registered professional nurse or the person employing the registered professional nurse maintains malpractice insurance.

(5) Subsection (3) does not require new or additional third party reimbursement or mandated worker's compensation benefits for anesthesia and analgesia services provided under that subsection by a registered professional nurse who holds a specialty certification as a nurse anesthetist under this part.

(6) As used in this section:

(a) "Collaboratively participating" means practicing and communicating with health care professionals involved in the patient-centered care team to optimize the overall care delivered to the patient.

(b) "Health care facility" means any of the following:

(i) A hospital inpatient or outpatient facility.

(ii) A freestanding surgical outpatient facility.

(iii) An office of a physician, podiatrist, or dentist.

(iv) Any other office or facility in which diagnostic or therapeutic procedures are provided to a patient, including, but not limited to, imaging, endoscopy, or cystoscopy services.

(c) "Health care professional" means an individual who is licensed or registered to perform a health profession under this article.

(d) "Patient-centered care team" means a group of health care professionals, which must include, but is not limited to, a qualified health care professional, who directly or indirectly care for a patient by each contributing his or her specialized knowledge, skill, and experience to the care of the patient.

(e) "Qualified health care professional" means any of the following health care professionals who has completed the necessary education, training, and experience in anesthesia care or pharmacology, or has experience with procedures requiring anesthesia:

(i) A physician.

(ii) A dentist licensed under part 166.

(iii) A podiatric physician licensed under part 180.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2016, Act 499, Eff. Apr. 9, 2017 ;-- Am. 2017, Act 22, Imd. Eff. Mar. 31, 2017 ;-- Am. 2021, Act 53, Eff. Oct. 11, 2021
Popular Name: Act 368

333.17211 Practice of nursing or as licensed practical nurse; license or authorization required; use of words, titles, or letters.

Sec. 17211.

(1) An individual shall not engage in the practice of nursing or the practice of nursing as a licensed practical nurse unless he or she is licensed or is otherwise authorized by this article.

(2) The following words, titles, or letters or a combination of the words, titles, or letters, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part:

(a) "Registered professional nurse", "registered nurse", "r.n.", "licensed practical nurse", "l.p.n.", "nurse midwife", "certified nurse midwife", "c.n.m.", "advanced practice registered nurse", "a.p.r.n.", "nurse anesthetist", "nurse practitioner", "n.p.", "certified nurse practitioner", and "c.n.p.".

(b) Beginning 12 months after the effective date of the rules promulgated under section 17210(2), "clinical nurse specialist", "c.n.s.", "clinical nurse specialist-certified", and "c.n.s.-c.".

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2006, Act 409, Imd. Eff. Sept. 29, 2006 ;-- Am. 2016, Act 499, Eff. Apr. 9, 2017 ;-- Am. 2017, Act 22, Imd. Eff. Mar. 31, 2017
Popular Name: Act 368

333.17211a Advanced practice registered nurse; authority to prescribe nonscheduled prescription drug or controlled substance.

Sec. 17211a.

(1) An advanced practice registered nurse may prescribe any of the following:

(a) A nonscheduled prescription drug.

(b) Subject to subsection (2), a controlled substance included in schedules 2 to 5 of part 72, as a delegated act of a physician.

(2) If an advanced practice registered nurse prescribes a controlled substance under subsection (1)(b), both the advanced practice registered nurse's name and the physician's name shall be used, recorded, or otherwise indicated in connection with that prescription. If an advanced practice registered nurse prescribes a controlled substance under subsection (1)(b), both the advanced practice registered nurse's and the physician's DEA registration numbers shall be used, recorded, or otherwise indicated in connection with that prescription.

(3) The amendatory act that added this section does not require new or additional third-party reimbursement or mandated worker's compensation benefits for services rendered by an advanced practice registered nurse who is authorized to prescribe nonscheduled prescription drugs and controlled substances included in schedules 2 to 5 of part 72 under this section.

History: Add. 2016, Act 499, Eff. Apr. 9, 2017
Popular Name: Act 368

333.17212 Registered professional nurse or advanced practice registered nurse; ordering, receiving, or dispensing complimentary starter dose drugs; delegation; "complimentary starter dose" defined.

Sec. 17212.

(1) Subject to subsections (2) and (3), in addition to acts, tasks, and functions delegated under section 16215, 17211a(1)(b), 17745, 17745a, or 17745b, a supervising physician may delegate in writing to a registered professional nurse the ordering, receipt, and dispensing of complimentary starter dose drugs other than controlled substances as defined in article 7 or federal law. If a delegated ordering, receipt, or dispensing of complimentary starter dose drugs described in this subsection occurs, both the registered professional nurse's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each order, receipt, or dispensing.

(2) Subject to subsection (3), an advanced practice registered nurse may order, receive, and dispense a complimentary starter dose drug without delegation from a physician. Only the name of the advanced practice registered nurse shall be used, recorded, or otherwise indicated in connection with an order, receipt, or dispensing of a complimentary starter dose drug under this subsection.

(3) An advanced practice registered nurse may order, receive, and dispense complimentary starter doses of controlled substances included in schedules 2 to 5 of part 72 as a delegated act of a physician. If a delegated ordering, receipt, or dispensing of complimentary starter dose drugs described in this subsection occurs, the advanced practice registered nurse's name and the delegating physician's name shall be used, recorded, or otherwise indicated in connection with each order, receipt, or dispensing and both the advanced practice registered nurse's and the delegating physician's DEA registration number shall be used, recorded, or otherwise indicated in connection with each order, receipt, or dispensing.

(4) It is the intent of the legislature in enacting this section to allow a pharmaceutical manufacturer or wholesale distributor, as those terms are defined in part 177, to distribute complimentary starter dose drugs to an advanced practice registered nurse described in subsections (2) and (3), or to a registered professional nurse described in subsection (1), in compliance with section 503(d) of the federal food, drug, and cosmetic act, 21 USC 353.

(5) As used in this section, "complimentary starter dose" means that term as defined in section 17745.

History: Add. 1996, Act 355, Imd. Eff. July 1, 1996 ;-- Am. 2016, Act 499, Eff. Apr. 9, 2017
Popular Name: Act 368

333.17213 Licensure as registered professional nurse; graduate of nurse education program located outside of United States; requirements.

Sec. 17213.

(1) Notwithstanding section 16145 or section 16174(1)(c) or rules promulgated pursuant to either of those sections, the board may grant a license to an applicant applying for initial licensure as a registered professional nurse who is a graduate of a nurse education program that is located outside of the United States if he or she meets the requirements of section 16174 and satisfies each of the following:

(a) Provides verification that the nurse education program from which he or she graduated is substantially equivalent to the nursing education programs in this state that are approved by the board.

(b) Has passed the requisite examination for licensure as a registered professional nurse, as approved by the board.

(2) Notwithstanding section 16145 or section 16174(1)(c) or rules promulgated pursuant to either of those sections, the board may grant a license to an applicant applying for licensure as a registered professional nurse who is licensed in another state or, until January 1, 2012, is licensed in a province of Canada and who is a graduate of a nurse education program located outside of the United States and Canada if he or she meets the requirements of subsection (1) and provides verification of licensure or registration in each state, country, jurisdiction, territory, and province in which he or she is currently licensed or registered or has been licensed or registered. If the applicant seeking licensure under this subsection has, for at least 5 years immediately preceding the application, maintained an active license or registration in another state with no disciplinary sanctions, then the applicant does not have to provide the verification required under subsection (1)(a).

History: Add. 2007, Act 19, Imd. Eff. June 14, 2007
Popular Name: Act 368

333.17214 Advanced practice registered nurse; calls or rounds.

Sec. 17214.

An advanced practice registered nurse may make calls or go on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities. Notwithstanding any law or rule to the contrary, an advanced practice registered nurse may make calls or go on rounds as provided in this section without restrictions on the time or frequency of visits by a physician or the advanced practice registered nurse.

History: Add. 2016, Act 499, Eff. Apr. 9, 2017
Popular Name: Act 368

333.17221 Michigan board of nursing; creation; number and qualifications of members; terms.

Sec. 17221.

(1) The Michigan board of nursing is created in the department.

(2) Except as otherwise provided in subsection (3), the Michigan board of nursing shall consist of the following 24 voting members who shall meet the requirements of part 161: 9 registered professional nurses, 1 nurse midwife, 1 nurse anesthetist, 1 nurse practitioner, 1 clinical nurse specialist, 3 licensed practical nurses, and 8 public

members. Three of the registered professional nurse members shall be engaged in nursing education, 1 of whom shall be in less than a baccalaureate program, 1 in a baccalaureate or higher program and 1 in a licensed practical nurse program and each of whom shall have a master's degree from an accredited college with a major in nursing. Three of the registered professional nurse members shall be engaged in nursing practice or nursing administration, each of whom shall have a baccalaureate degree in nursing from an accredited college. Three of the registered professional nurse members shall be engaged in nursing practice or nursing administration, each of whom shall be a nonbaccalaureate registered nurse. The 3 licensed practical nurse members shall have graduated from a state approved program for the preparation of individuals to practice as licensed practical nurses. The nurse midwife, the nurse anesthetist, the nurse practitioner, and the clinical nurse specialist shall each have a specialty certification granted by the Michigan board of nursing in his or her respective specialty field.

(3) All of the following apply to the members of the board described in subsection (2):

(a) The individual who is a registered professional nurse who is certified by a national organization as a clinical nurse specialist shall continue as a member of the board under subsection (2) for the remainder of his or her respective term. When the term of the registered professional nurse described in this subdivision expires, subject to section 16121, the governor shall appoint a registered professional nurse who has been granted a specialty certification as a clinical nurse specialist by the Michigan board of nursing.

(b) The 8 public members on the board shall continue in office for the remainder of their respective terms. Until the term of office of 1 of those public members expires, the board shall continue with 24 members. When the term of office of 1 or more of the 8 public members first expires, the governor shall not appoint 1 public member, to reduce the total number of public members to 7 and the total number of board members to 23.

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

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979 ;-- Am. 1989, Act 201, Imd. Eff. Oct. 23, 1989 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 409, Imd. Eff. Sept. 29, 2006 ;-- Am. 2016, Act 499, Eff. Apr. 9, 2017
Popular Name: Act 368

333.17224, 333.17225 Repealed. 1989, Act 201, Imd. Eff. Oct. 23, 1989.

Compiler's Notes: The repealed sections pertained to task force for health professional subfields and health profession specialty fields.
Popular Name: Act 368

333.17231 Honorary license; "advanced illness" defined; name of section.

Sec. 17231.

(1) The department, in consultation with the board, may issue an honorary license to an individual, living or deceased, who has met all of the requirements of this part to be eligible for a license except for passage of an examination and who is unable to take the examination due to advanced illness. An honorary license issued under this section does not confer any right to engage in the practice of nursing.

(2) As used in this section, "advanced illness" means that term as defined in section 5653.

(3) This section may be referred to as "Katie Viger's law".

History: Add. 2010, Act 15, Imd. Eff. Mar. 18, 2010

333.17241 Nursing education program; application to conduct; evidence required; evaluation; inspection; report; approval; continuation of existing programs; accreditation by national board or organization; education program for psychiatric attendant nurses or trained attendants prohibited.

Sec. 17241.

(1) An institution seeking to conduct a nursing education program to prepare individuals for licensing shall apply to the board and submit evidence that it is prepared:

(a) To carry out the minimum curriculum prescribed by the board in rules for the preparation of individuals for licensing.

(b) To meet other educational and training standards established by the board under this article and the rules promulgated under this article.

(2) The board shall evaluate and may inspect the institution and its nursing education program and prepare a written report of its findings. The board, upon determining that requirements for a nursing education program are met, shall approve the program. A nursing education program approved by the board and in operation on the effective date of this part may continue as approved pending further action by the board. The board may accept accreditation by a national board or organization as a basis for approval under this section.

(3) After September 30, 1978, the board shall not approve an educational program for psychiatric attendant nurses or trained attendants.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986
Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€
Popular Name: Act 368

333.17242 Inspection of approved nursing education program; report; notice of deficiency; removal from list of approved programs; hearing.

Sec. 17242.

(1) The board may inspect an approved nursing education program in this state and prepare a written report of its findings. If the board determines that the standards required by this part and the board are not being met, written notice specifying the areas in which the board has found a program to be deficient shall be sent immediately to the institution conducting the program.

(2) A nursing education program which within a reasonable length of time, as determined by the board, fails to meet standards prescribed by the board shall be removed from the list of approved programs. An institution conducting a program which is removed from the approved list shall be granted an opportunity for a hearing.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

Part 173

333.17301 Definitions; principles of construction.

Sec. 17301.

(1) As used in this part:

(a) "Nursing home" means that term as defined in section 20109.

(b) "Nursing home administrator" means the individual licensed under this article to engage in the practice of nursing home administration.

(c) "Practice of nursing home administration" means planning, organizing, directing, and controlling the total operation of the nursing home on behalf of the governing board or owner of a nursing home.

(2) In addition to the definitions of 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.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001
Popular Name: Act 368

333.17303 Representation as nursing home administrator.

Sec. 17303.

A person shall not represent that he or she is a nursing home administrator or use a title including "nursing home administrator" or an abbreviation of that term or similar words that would indicate that he or she is licensed under this article unless the person is licensed under this article as a nursing home administrator.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001
Popular Name: Act 368

333.17305 Board of nursing home administrators; creation; membership; terms.

Sec. 17305.

(1) Subject to section 17319(2), the Michigan board of nursing home administrators is created in the department and consists of the following 9 voting members who meet the requirements of part 161:
(a) Six nursing home administrators.
(b) Three public members.
(2) The terms of office of individual members of the board created under subsection (1), except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001 ;-- Am. 2006, Act 389, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.17307 Operation of nursing home; practice of nursing home administrator.

Sec. 17307.

(1) In addition to the requirements of section 21720, a nursing home shall not operate except under the direction of a nursing home administrator.
(2) A person shall not engage in the practice of nursing home administration unless the person is the holder of a valid nursing home administrator's license issued under this part.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001
Popular Name: Act 368

333.17309 License; issuance; requirements.

Sec. 17309.

(1) The department shall issue a license as a nursing home administrator to a person who fulfills the requirements of this section or section 17315.
(2) An applicant for licensure as a nursing home administrator shall have satisfactorily completed a course of instruction and training approved by the department, which course shall be designed as to content and be administered as to present sufficient knowledge of the following:
(a) The needs properly to be served by a nursing home.

(b) The laws governing the operation of a nursing home and the protection of the interests of a patient in a nursing home.

(c) The elements of good nursing home administration.

(3) An applicant for licensure as a nursing home administrator shall present evidence satisfactory to the department of sufficient education and training in the fields of study described in subsection (2) or shall have been employed as a chief executive or administrative officer at a hospital licensed under article 17 for not less than 5 of the 7 years immediately preceding the date of application for a license under this part.

(4) Subject to section 16178, an applicant for licensure as a nursing home administrator shall also present evidence acceptable to the department of having passed an examination acceptable to the board and the department. The examination shall be designed to test for competence in the fields of study described in subsection (2).

(5) An applicant for licensure as a nursing home administrator shall be of good moral character and meet any additional qualifications as may be required by rule of the department and board.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001
Popular Name: Act 368

333.17311 Insufficient courses or training sessions; approval of course.

Sec. 17311.

(1) If the department and board find that there are not a sufficient number of courses of instruction and training sufficient to meet the requirements of this part conducted within this state, the department may conduct 1 or more of those courses or training sessions, or both. The department shall ensure that a course or training session conducted under this subsection is reasonably accessible to a resident of this state.

(2) The department and board may approve a course of instruction or a training session conducted within or without this state if the department determines that it is sufficient to meet the education and training requirements of this part.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001
Popular Name: Act 368

333.17313 License renewal; continuing education required.

Sec. 17313.

(1) Subject to sections 16201 and 16204, the department shall not issue a renewal license unless the licensee presents satisfactory evidence to the department that the licensee has participated in continuing education courses of not less than 18 clock hours' duration approved by the board and department, for each year subsequent to the expiration of the individual's last license.

(2) The continuing education courses required under subsection (1) shall contain subjects related to the practice of nursing home administration acceptable to the board and the department.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001
Popular Name: Act 368

333.17315 Nursing home administrator of Christian Science nursing home; limited license.

Sec. 17315.

(1) Subject to section 16182, this part or a rule promulgated under this part shall not require an applicant for a

limited license as a nursing home administrator of a Christian Science nursing home to meet a medical educational qualification or to pass an examination on medical subjects.

(2) A license issued under this section shall describe its limitation.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001
Popular Name: Act 368

333.17317 Out-of-state license; requirements.

Sec. 17317.

Subject to section 16186, the department may issue a nursing home administrator's license, without examination, to an individual who holds a current license as a nursing home administrator from another state if the applicant passes an examination approved by the department and the board which tests the individual's knowledge of law relating to practice in Michigan.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001
Popular Name: Act 368

333.17319 Individual licensed under former article 19 of occupational code; members of nursing home administrators' board created under former section 1902 of occupational code; rules.

Sec. 17319.

(1) An individual who holds a license issued under former article 19 of the occupational code, 1980 PA 299, on the effective date of the amendatory act that added this part is licensed under this part until that license expires and may renew his or her license pursuant to part 161.

(2) The members of the nursing home administrators' board created under former section 1902 of the occupational code, 1980 PA 299, shall serve as the initial members of the nursing home administrators' board created in section 17305 until their successors are appointed under this article or until the expiration of their respective terms, whichever occurs first. However, if the term of a member of the nursing home administrators' board has not expired on the effective date of the amendatory act that added this part, that term expires on June 30 of the year in which the term will expire.

(3) Rules promulgated by the nursing home administrators' board, the department, or the director under former article 19 of the occupational code, 1980 PA 299, and in effect on the effective date of the amendatory act that added this part continue in effect to the extent that they do not conflict with this article and shall continue to be enforced. The rules may be amended or rescinded by the director.

History: Add. 2001, Act 139, Imd. Eff. Oct. 26, 2001
Popular Name: Act 368

Part 174
OPTOMETRY

333.17401 Definitions; principles of construction.

Sec. 17401.

(1) As used in this part:

(a) "Optometrist" means an individual licensed under this article to engage in the practice of optometry.

(b) "Practice of optometry" means 1 or more of the following, but does not include the performance of invasive

procedures:

(i) The examination of the human eye to ascertain the presence of defects or abnormal conditions that may be corrected, remedied, or relieved, or the effects of which may be corrected, remedied, or relieved by the use of lenses, prisms, or other mechanical devices.

(ii) The employment of objective or subjective physical means to determine the accommodative or refractive conditions or the range of powers of vision or muscular equilibrium of the human eye.

(iii) The adaptation or the adjustment of the lenses or prisms or the use of therapeutic pharmaceutical agents to correct, remedy, or relieve a defect or abnormal condition or to correct, remedy, or relieve the effect of a defect or abnormal condition of the human eye.

(iv) The examination of the human eye for contact lenses and the fitting or insertion of contact lenses to the human eye.

(v) The employment of objective or subjective means, including diagnostic pharmaceutical agents by an optometrist who meets the requirements of section 17412, for the examination of the human eye for the purpose of ascertaining a departure from the normal, measuring of powers of vision, and adapting lenses for the aid of those powers.

(c) "Diagnostic pharmaceutical agent" means a topically administered prescription drug or other topically administered drug used for the purpose of investigating, analyzing, and diagnosing a defect or abnormal condition of the human eye or ocular adnexa.

(d) "Therapeutic pharmaceutical agent" means 1 or more of the following:

(i) A topically administered prescription drug or other topically administered drug used for the purpose of investigating, analyzing, diagnosing, correcting, remedying, or relieving a defect or abnormal condition of the anterior segment of the human eye or for the purpose of correcting, remedying, or relieving the effects of a defect or abnormal condition of the anterior segment of the human eye.

(ii) A topically or orally administered antiglaucoma drug.

(iii) An orally administered prescription drug or other orally administered drug used for the purpose of investigating, analyzing, diagnosing, correcting, remedying, or relieving a defect or abnormal condition of the anterior segment of the human eye and adnexa or for the purpose of investigating, analyzing, diagnosing, correcting, remedying, or relieving the effects of a defect or abnormal condition of the anterior segment of the human eye and adnexa that is administered by an optometrist who has completed 50% of the continuing education hours required for renewal of a license in the category of pharmacological management of ocular conditions.

(e) "Drug" means that term as defined in section 17703, but does not include a controlled substance as defined in section 7104 and included in schedule 2 under section 7214, an oral cortical steroid, or a prescription drug. However, drug does include a controlled substance included in schedules 3, 4, and 5 under sections 7216, 7218, and 7220, respectively, and dihydrocodeinone combination drugs.

(f) "Prescription drug" means that term as defined in section 17708, but does not include a controlled substance as defined in section 7104 and included in schedule 2 under section 7214 or an oral cortical steroid. However, prescription drug does include a controlled substance included in schedules 3, 4, and 5 under sections 7216, 7218, and 7220, respectively, and dihydrocodeinone combination drugs.

(g) "Physician" means that term as defined in section 17001 or 17501.

(h) "Invasive procedures" means all of the following:

(i) The use of lasers other than for observation.

(ii) The use of ionizing radiation.

(iii) The use of therapeutic ultrasound.

(iv) The administration of medication by injection.

(v) Procedures that include an incision.

(2) 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.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1984, Act 42, Eff. Apr. 12, 1984 ;-- Am. 1994, Act 384, Eff. Mar 30, 1995 ;-- Am. 1997, Act 151, Imd. Eff. Dec. 2, 1997 ;-- Am. 2002, Act 599, Imd. Eff. Dec. 16, 2002

Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular Name: Act 368

333.17411 Practice of optometry; authorization required; use of words, titles, or letters.

Sec. 17411.

(1) A person shall not engage in the practice of optometry except as authorized by this article.

(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 part to use the terms and in a way prescribed by this part: "doctor of optometry", "optometrist", and "o.d.".

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2006, Act 410, Imd. Eff. Sept. 29, 2006
Popular Name: Act 368

333.17412 Administration of diagnostic pharmaceutical agents; purposes; certification required; requirements for certification; completion of course of study and examination; exception.

Sec. 17412.

(1) Subject to subsection (2), a licensee may administer a diagnostic pharmaceutical agent in the course of his or her practice solely for the purposes of determining the refractive, muscular, or functional origin of sources of visual discomfort or difficulty and detecting abnormalities which may be evidence of disease if the licensee is certified by the board as being qualified to administer diagnostic pharmaceutical agents pursuant to this section.

(2) The board shall certify a licensee as qualified to administer diagnostic pharmaceutical agents if the licensee meets all of the following requirements:

(a) Has successfully completed 60 classroom hours of study in general and clinical pharmacology as it relates to the practice of optometry, with particular emphasis on the use of diagnostic pharmaceutical agents for examination purposes. Not less than 30 of the 60 classroom hours shall be in ocular pharmacology and shall emphasize the systemic effects of and reactions to diagnostic pharmaceutical agents, including the emergency management and referral of any adverse reactions that may occur. The course of study shall be approved by the board, and shall be offered by a school or college of optometry that is recognized by the board as fully accredited. The course of study shall be completed before taking the examination required by this section.

(b) Has successfully completed an examination approved by the board on the subject of general and ocular pharmacology as it relates to the practice of optometry with particular emphasis on the use of diagnostic pharmaceutical agents, including emergency management and referral of any adverse reactions that may occur.

(c) Has successfully completed a course in cardiopulmonary resuscitation approved by the department of public health and offered or approved by the red cross, American heart association, an accredited hospital, or a comparable organization or institution.

(d) Has established an emergency plan for the management and referral to appropriate medical services of patients who experience adverse drug reactions resulting from the application of diagnostic pharmaceutical agents. The plan shall be approved by the board and shall, at a minimum, require the optometrist to do all of the following:

(i) Refer patients who notify the optometrist of an adverse drug reaction to appropriate medical specialists or facilities.

(ii) Routinely advise each patient to immediately contact the optometrist if the patient experiences an adverse drug reaction.

(iii) Place in the patient's permanent record information describing any adverse drug reaction experienced by the patient and the date and time that any referral was made.

(iv) Include in the plan the names of not less than 3 physicians, physician clinics, or hospitals to whom the optometrist will refer patients who experience an adverse drug reaction, at least 1 of which is skilled or specializes in the diagnosis and treatment of diseases of the eye. However, if a patient being treated by the optometrist has a primary care physician, the optometrist may substitute the patient's primary care physician for a physician named in the plan, but shall not substitute the patient's primary care physician for a physician named in the plan who specializes in the diagnosis and treatment of diseases of the eye.

(3) The course of study and examination required by subsection (2)(a) and (b) shall be completed before certification, except that the board may certify applicants who have graduated from a school of optometry recognized by the board as accredited within the 5 years immediately preceding April 12, 1984, if the school's curriculum includes a course of study and examination meeting the requirements of subsection (2)(a) and (b).

History: Add. 1984, Act 42, Eff. Apr. 12, 1984 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 1994, Act 384, Eff. Mar 30, 1995
Popular Name: Act 368

333.17414 Permissible conduct; untruthful, misleading, or deceptive statements in advertisement or notice prohibited.

Sec. 17414.

(1) This part does not prohibit:

(a) An optician from the adjusting, replacing, repairing, or reproducing of previously prepared eyeglasses or any part thereof.

(b) An unlicensed person from selling eyeglasses on prescription from an optometrist or physician.

(c) A person who does not hold himself or herself out as being a licensee under this part from selling eyeglasses as an article of merchandise.

(2) It shall be unlawful for any person licensed under this part, or any individual, firm or corporation engaged in the sale of merchandise of any description who maintains or operates, or who allows to be maintained or operated in connection with said merchandise business, an optometric department, or who rents or subleases to any person or persons for the purpose of engaging in the practice of optometry therein, any part of premises in which such person, persons, firm or corporation is engaged in mercantile business, to publish or circulate, or print or cause to be printed, by any means whatsoever, any advertisement or notice in which said advertisement or notice appears, any untruthful or misleading statement, or anything calculated or intended to mislead or deceive the public or any individual.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17421 Michigan board of optometry; creation; membership; terms.

Sec. 17421.

(1) The Michigan board of optometry is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 optometrists and 4 public members.

(2) The terms of office of individual members of the board created under subsection (1), except those appointed to fill vacancies, expire 4 years after the appointment on June 30 of the year in which the term expires.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 410, Imd. Eff. Sept. 29, 2006
Compiler's Notes: For the revision of the membership requirements of the Michigan board of optometry, see E.R.O. No. 2024-2, compiled at MCL 16.735.
Popular Name: Act 368

333.17431 Renewal of license; evidence required; completion of hours or courses in pain and symptom management as continuing education; rules.

Sec. 17431.

(1) Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 2 years immediately preceding the application for renewal the licensee has attended an education program approved by the board and totaling not less than 40 hours in subjects related to the practice of optometry and designed to further educate licensees.

(2) As required under section 16204, the board shall promulgate rules requiring each applicant for license renewal to complete as part of the education program required under subsection (1) an appropriate number of hours or courses in pain and symptom management.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986 ;-- Am. 1994, Act 234, Imd. Eff. June 30, 1994 ;-- Am. 2002, Act 599, Imd. Eff. Dec. 16, 2002
Popular Name: Act 368

333.17432 Duties of optometrist upon determining symptoms evidencing disease; conditions requiring consultation with physician for further diagnosis and treatment; diagnosis and treatment of glaucoma.

Sec. 17432.

(1) Whether or not diagnostic pharmaceutical agents or therapeutic pharmaceutical agents have been used, if an optometrist determines from interviewing or examining a patient, using judgment and that degree of skill, care, knowledge, and attention ordinarily possessed and exercised by optometrists in good standing under like circumstances, that there are present in that patient signs or symptoms that may be evidence of disease that the optometrist is not authorized to treat under this part, then the optometrist shall do both of the following:

(a) Promptly advise that patient to seek evaluation by an appropriate physician for diagnosis and possible treatment.

(b) Not attempt to treat the condition by the use of diagnostic pharmaceutical agents, therapeutic pharmaceutical agents, or any other means.

(2) Subject to subsections (3) and (4), if an optometrist treats a patient for a condition or disease that the optometrist is authorized to treat under this part, and if that condition or disease may be related to a nonlocalized or systemic condition or disease or does not demonstrate adequate clinical progress as a result of the treatment, the optometrist shall consult an appropriate physician for further diagnosis and possible treatment and to determine if the condition or disease is related to a nonlocalized or systemic condition or disease.

(3) When a diagnosis of glaucoma is made and treatment has begun, the treating optometrist shall consult an appropriate physician for further diagnosis and possible treatment if the condition does not demonstrate adequate clinical progress as a result of the treatment.

(4) If an optometrist diagnoses that a patient has acute glaucoma, the optometrist shall, as soon as possible, consult a physician for further diagnosis and possible treatment.

History: Add. 1984, Act 42, Eff. Apr. 12, 1984 ;-- Am. 1994, Act 384, Eff. Mar 30, 1995 ;-- Am. 1997, Act 151, Imd. Eff. Dec. 2, 1997 ;-- Am. 2002, Act 599, Imd. Eff. Dec. 16, 2002
Popular Name: Act 368

333.17433 Repealed. 1994, Act 384, Eff. Mar. 30, 1995.

Compiler's Notes: The repealed section pertained to reimbursement from public or private third-party payer.
Popular Name: Act 368

333.17435 Administration and prescription of therapeutic pharmaceutical agents; certification requirements.

Sec. 17435.

(1) A licensee may administer and prescribe therapeutic pharmaceutical agents in the course of his or her practice if the licensee is certified by the board as being qualified to administer and prescribe therapeutic pharmaceutical agents pursuant to this section.

(2) The board shall certify a licensee as qualified to administer and prescribe therapeutic pharmaceutical agents if the licensee meets all of the following requirements:

(a) Has met the certification requirements to administer diagnostic pharmaceutical agents under section 17412.

(b) Has successfully earned at least 10 quarter hours or 7 semester hours of credit or successfully completed 100 classroom hours of study in courses relating to the didactic and clinical use of therapeutic pharmaceutical agents from a school or college of optometry that is recognized by the board as fully accredited.

(c) Has established a management plan in the event a patient has an ocular condition or disease that may be related to a nonlocalized or systemic condition or disease or to an adverse drug reaction, or that does not

demonstrate adequate clinical progress as a result of treatment. The plan shall meet the requirements of section 17412(2)(d). A licensee who has an emergency plan approved by the board under section 17412(2)(d) at the time he or she applies for certification to administer and prescribe therapeutic pharmaceutical agents is in compliance with this subdivision.

History: Add. 1994, Act 384, Eff. Mar. 30, 1995
Popular Name: Act 368

333.17437 Time of certification.

Sec. 17437.

Except for a licensee from another state who is seeking licensure in this state, an optometrist licensed after the effective date of this section who intends to obtain certification to administer diagnostic pharmaceutical agents and to administer and prescribe therapeutic pharmaceutical agents shall obtain the certification at the time of initial licensure.

History: Add. 1994, Act 384, Eff. Mar. 30, 1995
Popular Name: Act 368

Part 175
OSTEOPATHIC MEDICINE AND SURGERY

333.17501 Definitions; principles of construction.

Sec. 17501.

(1) As used in this part:

(a) "Electrodiagnostic studies" means the testing of neuromuscular functions utilizing nerve conduction tests and needle electromyography. It does not include the use of surface electromyography.

(b) "Medical care services" means those services within the scope of practice of physicians who are licensed or authorized by the board, except those services that the board prohibits or otherwise restricts within a practice agreement or determines shall not be delegated by a physician without endangering the health and safety of patients as provided for in section 17548(1).

(c) "Participating physician" means a physician, a physician designated by a group of physicians under section 17549 to represent that group, or a physician designated by a health facility or agency under section 20174 to represent that health facility or agency.

(d) "Physician" means an individual who is licensed or authorized under this article to engage in the practice of osteopathic medicine and surgery.

(e) "Practice agreement" means an agreement described in section 17547.

(f) "Practice of osteopathic medicine and surgery" means a separate, complete, and independent school of medicine and surgery utilizing full methods of diagnosis and treatment in physical and mental health and disease, including the prescription and administration of drugs and biologicals, operative surgery, obstetrics, radiological and other electromagnetic emissions, and placing special emphasis on the interrelationship of the musculoskeletal system to other body systems.

(g) "Practice as a physician's assistant" means the practice of osteopathic medicine and surgery with a participating physician under a practice agreement.

(h) "Task force" means the joint task force created in section 17025.

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

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990 ;-- Am. 2005, Act 264, Eff. Mar. 30, 2006 ;-- Am. 2006, Act 161, Eff. Nov. 26, 2006 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017 ;-- Am. 2018, Act 524, Eff. Mar. 28, 2019
Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled

Laws.
Popular Name: Act 368

333.17508 Physician's assistant; health profession subfield.

Sec. 17508.

Practice as a physician's assistant is a health profession subfield of the practice of osteopathic medicine and surgery, the practice of medicine, and the practice of podiatric medicine and surgery.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2006, Act 161, Eff. Nov. 26, 2006
Popular Name: Act 368

333.17511 Practice of osteopathic medicine and surgery and practice as physician's assistant; license or authorization required; conditions; use of words, titles, or letters.

Sec. 17511.

(1) A person shall not engage in the practice of osteopathic medicine and surgery or practice as a physician's assistant unless licensed or otherwise authorized by this article.

(2) Notwithstanding section 16145 or rules promulgated under that section, the board may grant a license in accordance with section 16186 after determining that each of the following conditions is satisfied:

(a) The applicant has disclosed that a sanction is in force against him or her as described in section 16174(2)(b) and considering the reasons for the sanction and the applicant's record of practice, experience, credentials, and competence to engage in the practice of osteopathic medicine and surgery, that sanction should not prevent the applicant from being granted a license in this state.

(b) The sanction imposed by the other state is not permanent.

(c) The sanction imposed by the other state was not the result of a patient safety violation.

(d) If the applicant was required by the state that imposed the sanction to participate in and complete a probationary period or treatment plan as a condition of the continuation of his or her licensure, the applicant did not complete the probationary period or treatment plan because the applicant ceased engaging in the practice of osteopathic medicine and surgery in that state.

(e) As a condition of licensure under this subsection, the applicant voluntarily agrees to complete a probationary period or treatment plan, the terms of which are no less stringent than those imposed by the state that imposed the sanction.

(3) Except as otherwise provided in this subsection, 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 part to use the terms and in a way prescribed in this part: "osteopath", "osteopathy", "osteopathic practitioner", "doctor of osteopathy", "diplomate in osteopathy", "d.o.", "physician's assistant", and "p.a.". 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 individual is licensed under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2006, Act 386, Imd. Eff. Sept. 27, 2006 ;-- Am. 2006, Act 398, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.17511a Expedited license under the interstate medical licensure compact; authorization to engage in practice of osteopathic medicine and surgery; "interstate medical licensure compact" defined.

Sec. 17511a.

(1) An osteopathic physician who holds an expedited license under the interstate medical licensure compact is authorized to engage in the practice of osteopathic medicine and surgery under this article.

(2) For purposes of this article, including the obligations of an individual who is licensed as a physician under this part, an osteopathic physician who holds an expedited license under the interstate medical licensure compact is considered a physician who is licensed under this part.

(3) As used in this section, "interstate medical licensure compact" means the interstate medical licensure compact as enacted in section 16189.

History: Add. 2018, Act 524, Eff. Mar. 28, 2019
Popular Name: Act 368

333.17512 Postgraduate study; full or limited license required; requirements of limited license; responsibility for training; limited license renewable.

Sec. 17512.

(1) An individual shall not engage in postgraduate study before obtaining a full or limited license to practice under this part.

(2) A limited license for a postgraduate shall require that the individual confine his or her practice and training to a hospital or institution approved by the board for the training. The hospital or institution is responsible for the training. A limited license for a postgraduate is renewable for not more than 5 years.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17513 Alternative methods of treatment of breast cancer; duty of physician to inform patient; standardized written summary or brochure.

Sec. 17513.

(1) Beginning November 6, 1986, a physician who is administering the primary treatment for breast cancer to a patient who has been diagnosed as having breast cancer shall inform the patient, orally and in writing, about alternative methods of treatment of the cancer, including surgical, radiological, or chemotherapeutic treatments, or any other generally accepted medical treatment. The physician also shall inform the patient about the advantages, disadvantages, and risks of each method of treatment and about the procedures involved in each method of treatment.

(2) If a patient receives a standardized written summary or brochure, as described in section 17013(2) or (3), the physician shall be in full compliance with this section, including both the written and oral requirements.

(3) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would know.

History: Add. 1986, Act 195, Imd. Eff. July 8, 1986 ;-- Am. 1989, Act 15, Imd. Eff. May 15, 1989
Popular Name: Act 368

333.17515 Compliance with MCL 333.17015 and 333.17015a before performing abortion.

Sec. 17515.

A physician, before performing an abortion on a patient, shall comply with sections 17015 and 17015a.

History: Add. 1993, Act 133, Eff. Apr. 1, 1994 ;-- Am. 2012, Act 499, Eff. Mar. 31, 2013
Popular Name: Act 368

333.17516-333.17517 Repealed. 2023, Act 209, Eff. Feb. 13, 2024.

Compiler's Notes: The repealed sections pertained to a prohibition on partial-birth abortions and physical examination and informed consent requirements before performing a medical abortion.
Popular Name: Act 368

333.17518 Needle electromyography; performance by licensed physician; delegation; nerve conduction tests; performance of electrodiagnostic studies by physical therapist, podiatrist, or chiropractor; payment.

Sec. 17518.

(1) Except as otherwise provided in this section, only an individual who is licensed as a physician shall perform needle electromyography or interpret nerve conduction tests. A physician shall not delegate the interpretation of nerve conduction studies to another individual unless that individual is licensed under this article to engage in the practice of medicine or osteopathic medicine and surgery. A physician shall not delegate the performance of needle electromyography to another individual unless that individual is licensed under this article to engage in the practice of medicine or osteopathic medicine and surgery or that individual is otherwise authorized under this section.

(2) In accordance with section 16215, a physician may delegate the performance of nerve conduction tests to a licensed or unlicensed individual who is otherwise qualified by education, training, or experience if those tests are conducted under the direct supervision of a physician.

(3) A physical therapist who is licensed under this article and certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist on the effective date of this section may perform electrodiagnostic studies that are to be interpreted by a physician if he or she has been performing electrodiagnostic studies in this state on a consistent basis within the 5 years immediately preceding the effective date of this section. A physical therapist who is licensed under this article but is not certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist on the effective date of this section and who has been performing electrodiagnostic studies in this state on a consistent basis since before May 1, 2001 may continue to perform electrodiagnostic studies that are to be interpreted by a physician as long as he or she becomes certified by the American board of physical therapy specialties as an electrophysiologic clinical specialist by December 31, 2007. As used in this subsection, "consistent basis" means at a minimum an annual average of 10 electrodiagnostic studies each month.

(4) A podiatrist who is licensed under this article and has successfully completed additional training in the performance and interpretation of electrodiagnostic studies that is satisfactory to his or her respective board may conduct electrodiagnostic studies that are within his or her scope of practice.

(5) A chiropractor who is licensed under this article and has successfully completed additional training in the performance and interpretation of electrodiagnostic studies that is satisfactory to his or her respective board may conduct nerve conduction tests that are within his or her scope of practice.

(6) This section does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual authorized to conduct electrodiagnostic studies under this section.

History: Add. 2005, Act 264, Eff. Mar. 30, 2006

333.17520 Genetic test; informed consent.

Sec. 17520.

(1) Except as otherwise provided for a test performed under section 5431 and except as otherwise provided by law, beginning upon the expiration of 6 months after the effective date of the amendatory act that added this section, a physician or an individual to whom the physician has delegated authority to perform a selected act, task, or function under section 16215 shall not order a presymptomatic or predictive genetic test without first obtaining the written, informed consent of the test subject, pursuant to this section.

(2) For purposes of subsection (1), written, informed consent consists of a signed writing executed by the test subject or the legally authorized representative of the test subject that confirms that the physician or the individual acting under the delegatory authority of the physician has explained, and the test subject or the legally authorized representative of the test subject understands, at a minimum, all of the following:

(a) The nature and purpose of the presymptomatic or predictive genetic test.

(b) The effectiveness and limitations of the presymptomatic or predictive genetic test.

(c) The implications of taking the presymptomatic or predictive genetic test, including, but not limited to, the medical risks and benefits.

(d) The future uses of the sample taken from the test subject in order to conduct the presymptomatic or predictive genetic test and the information obtained from the presymptomatic or predictive genetic test.

(e) The meaning of the presymptomatic or predictive genetic test results and the procedure for providing notice of the results to the test subject.

(f) Who will have access to the sample taken from the test subject in order to conduct the presymptomatic or predictive genetic test and the information obtained from the presymptomatic or predictive genetic test, and the test subject's right to confidential treatment of the sample and the information.

(3) Within 6 months after the effective date of the amendatory act that added this section, the department of community health, in consultation with the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, at least 1 physician who is board certified by the American board of medical genetics, and appropriate professional organizations, shall develop and distribute a model informed consent form for purposes of this section that practitioners may adopt. The department of community health shall include in the model form at least all of the information required under subsection (2). The department of community health shall distribute the model form to physicians and other individuals subject to this section upon request and at no charge. The department of community health shall review the model form at least annually for 5 years after the first model form is distributed, and shall revise the model form if necessary to make the form reflect the latest developments in medical genetics.

(4) The department of community health, in consultation with the entities described in subsection (3), may also develop and distribute a pamphlet that provides further explanation of the information included in the model informed consent form.

(5) If a test subject or his or her legally authorized representative signs a copy of the model informed consent form developed and distributed under subsection (3), the physician or individual acting under the delegatory authority of the physician shall give the test subject a copy of the signed informed consent form and shall include the original signed informed consent form in the test subject's medical record.

(6) If a test subject or his or her legally authorized representative signs a copy of the model informed consent form developed and distributed under subsection (3), the test subject is barred from subsequently bringing a civil action for damages against the physician, or an individual to whom the physician delegated the authority to perform a selected act, task, or function under section 16215, who ordered the presymptomatic or predictive genetic test, based on failure to obtain informed consent for the presymptomatic or predictive genetic test.

(7) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under this article would know.

(8) Except as otherwise provided in subsection (9), as used in this section:

(a) "Genetic information" means information about a gene, gene product, or inherited characteristic which information is derived from a genetic test.

(b) "Genetic test" means the analysis of human DNA, RNA, chromosomes, and those proteins and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. A genetic test must be generally accepted in the scientific and medical communities as being specifically determinative for the presence, absence, or mutation of a gene or chromosome in order to qualify under this definition. Genetic test does not include a routine physical examination or a routine analysis, including, but not limited to, a chemical analysis, of body fluids, unless conducted specifically to determine the presence, absence, or mutation of a gene or chromosome.

(c) "Predictive genetic test" means a genetic test performed for the purpose of predicting the future probability that the test subject will develop a genetically related disease or disability.

(d) "Presymptomatic genetic test" means a genetic test performed before the onset of clinical symptoms or indications of disease.

(9) For purposes of subsection (8)(b), the term "genetic test" does not include a procedure performed as a

component of biomedical research that is conducted pursuant to federal common rule under 21 C.F.R. parts 50 and 56 and 45 C.F.R. part 46.

History: Add. 2000, Act 29, Imd. Eff. Mar. 15, 2000
Popular Name: Act 368

333.17521 Michigan board of osteopathic medicine and surgery; creation; membership; waiver; certain powers and duties prohibited.

Sec. 17521.

(1) The Michigan board of osteopathic medicine and surgery is created in the department and consists of the following 11 voting members who shall meet the requirements of part 161: 7 physicians, 1 physician's assistant, and 3 public members.

(2) The requirement of section 16135(1)(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived until September 30, 1980 for members of the board who are licensed in a health profession subfield created under this part.

(3) Except as otherwise provided in this article, the Michigan board of osteopathic medicine and surgery does not have the powers and duties vested in the task force by sections 17060 to 17084.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 1993, Act 138, Imd. Eff. Aug. 2, 1993 ;-- Am. 2006, Act 582, Imd. Eff. Jan. 3, 2007 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.17523 Repealed. 1978, Act 625, Imd. Eff. Jan. 6, 1979.

Compiler's Notes: The repealed section pertained to rules establishing standards and criteria.
Popular Name: Act 368

333.17525 Repealed. 2006, Act 161, Eff. Nov. 26, 2006.

Compiler's Notes: The repealed section pertained to creation of joint task force to advise boards on health profession subfields.
Popular Name: Act 368

333.17526 Terms of office.

Sec. 17526.

The terms of office of individual members of the board and task force created under this part, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: Add. 2006, Act 386, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.17529 Standards of medical practice for medical services involving vaginal or anal penetration; promulgation of rules.

Sec. 17529.

The department may promulgate rules that provide guidance to licensees on generally accepted standards of medical practice for medical services involving vaginal or anal penetration, including internal pelvic floor treatments but excluding medical services that primarily relate to a patient's urological, gastrointestinal, reproductive, gynecological, or sexual health, that are performed to measure a patient's temperature, or that are performed for the purpose of rectally administering a drug or medicine. If the department promulgates rules under this section, the department shall consult with appropriate professional associations and other interested stakeholders.

History: Add. 2023, Act 62, Eff. Oct. 10, 2023
Popular Name: Act 368

333.17531 Postgraduate education as condition for more than limited licensure.

Sec. 17531.

An applicant, in addition to completing the requirements for the degree in osteopathic medicine and surgery, shall complete a period of postgraduate education to attain proficiency in the practice of the profession as prescribed by the board in rules as a condition for more than limited licensure.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17533 Renewal of license; evidence required; completion of hours or courses in pain and symptom management as continuing education; rules.

Sec. 17533.

(1) Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 3 years immediately preceding an application for renewal the licensee has attended continuing education courses or programs approved by the board and totaling not less than 150 hours in subjects related to the practice of osteopathic medicine and surgery and designed to further educate licensees.

(2) As required under section 16204, the board shall promulgate rules requiring each applicant for license renewal to complete as part of the continuing education requirement of subsection (1) an appropriate number of hours or courses in pain and symptom management.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986 ;-- Am. 1994, Act 234, Imd. Eff. June 30, 1994
Popular Name: Act 368

333.17540-333.17547 Repealed. 1990, Act 247, Imd. Eff. Oct. 12, 1990.

Compiler's Notes: The repealed sections pertained to supervision of physician's assistants.

333.17547 Practice as physician's assistant; practice agreement; requirements.

Sec. 17547.

(1) A physician's assistant shall not engage in the practice as a physician's assistant except under the terms of a practice agreement that meets the requirements of this section.

(2) A practice agreement must include all of the following:

(a) A process between the physician's assistant and participating physician for communication, availability, and decision making when providing medical treatment to a patient. The process must utilize the knowledge and skills of the physician's assistant and participating physician based on their education, training, and experience.

(b) A protocol for designating an alternative physician for consultation in situations in which the participating physician is not available for consultation.

(c) The signatures of the physician's assistant and the participating physician.

(d) A termination provision that allows the physician's assistant or participating physician to terminate the practice agreement by providing written notice at least 30 days before the date of termination.

(e) Subject to section 17548, the duties and responsibilities of the physician's assistant and participating physician. The practice agreement shall not include as a duty or responsibility of the physician's assistant or participating physician an act, task, or function that the physician's assistant or participating physician is not qualified to perform by education, training, or experience and that is not within the scope of the license held by the physician's assistant or participating physician.

(f) A requirement that the participating physician verify the physician's assistant's credentials.

(3) The number of physician's assistants in a practice agreement with a participating physician and the number of individuals to whom a physician has delegated the authority to perform acts, tasks, or functions are subject to section 16221.

History: Add. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.17548 Prohibiting or restricting delegation of medical care service or requiring higher levels of supervision; making calls or going on rounds; rules concerning prescribing of drugs; ordering, receiving, and dispensing complimentary starter dose drugs.

Sec. 17548.

(1) Except for a medical care service within a practice agreement, to the extent that a particular selected medical care service requires extensive medical training, education, or ability or pose serious risks to the health and safety of patients, the board may prohibit or otherwise restrict the delegation of that medical care service or may require higher levels of supervision. To the extent that a particular medical care service requires extensive training, education, or ability or poses serious risks to the health or safety of patients, the board may prohibit or otherwise restrict that medical care service within a practice agreement.

(2) A physician's assistant may make calls or go on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities in accordance with a practice agreement. Notwithstanding any law or rule to the contrary, a physician's assistant may make calls or go on rounds as provided in this subsection without restrictions on the time or frequency of visits by a physician or the physician's assistant.

(3) For purposes of subsection (4), the department, in consultation with the board, may promulgate rules concerning the prescribing of drugs by a physician's assistant. Subject to subsection (4), the rules may define the drugs or classes of drugs that a physician's assistant may not prescribe and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws.

(4) A physician's assistant who is a party to a practice agreement may prescribe a drug in accordance with procedures and protocols for the prescription established by rule of the department in consultation with the appropriate board. A physician's assistant may prescribe a drug, including a controlled substance that is included in

schedules 2 to 5 of part 72. If a physician's assistant prescribes a drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that prescription. If a physician's assistant prescribes a drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that prescription.

(5) A physician's assistant may order, receive, and dispense complimentary starter dose drugs including controlled substances that are included in schedules 2 to 5 of part 72. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. As used in this subsection, "complimentary starter dose" means that term as defined in section 17745. It is the intent of the legislature in enacting this subsection to allow a pharmaceutical manufacturer or wholesale distributor, as those terms are defined in part 177, to distribute complimentary starter dose drugs to a physician's assistant, as described in this subsection, in compliance with section 503(d) of the federal food, drug, and cosmetic act, 21 USC 353.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1988, Act 462, Eff. Sept. 1, 1989 ;-- Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990 ;-- Am. 1996, Act 355, Imd. Eff. July 1, 1996 ;-- Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011 ;-- Am. 2012, Act 618, Imd. Eff. Jan. 9, 2013 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Compiler's Notes: In subsection (1), â€œposeâ€ evidently should read â€œposes.â€
Popular Name: Act 368
Admin Rule: R 338.6101 et seq. of the Michigan Administrative Code.

333.17549 Practice agreement; designation of physician; countersigning order or signing official form not required.

Sec. 17549.

(1) A group of physicians practicing other than as sole practitioners may designate 1 or more physicians in the group to enter into a practice agreement under section 17547.

(2) Notwithstanding any law or rule to the contrary, a physician is not required to countersign orders written in a patient's clinical record by a physician's assistant with whom the physician has a practice agreement. Notwithstanding any law or rule to the contrary, a physician is not required to sign an official form that lists the physician's signature as the required signatory if that official form is signed by a physician's assistant with whom the physician has a practice agreement.

History: Add. 1990, Act 247, Imd. Eff. Oct. 12, 1990 ;-- Am. 2004, Act 512, Imd. Eff. Jan. 3, 2005 ;-- Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.17550 Prohibiting physician or physician's assistant from entering into practice agreement; grounds.

Sec. 17550.

In addition to its other powers and duties under this article, the board may prohibit a physician or a physician's assistant from entering into a practice agreement for any of the grounds set forth in section 16221.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1990, Act 247, Imd. Eff. Oct. 12, 1990 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368
Admin Rule: R 338.6101 et seq. of the Michigan Administrative Code.

333.17554 Criteria for approval or evaluation; recommendations.

Sec. 17554.

The board shall make written recommendations on criteria for the approval of physician's assistants and on criteria for the evaluation of physician's assistants' training programs to the task force on physician's assistants.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17556 Exemption.

Sec. 17556.

This part does not apply to a student in training to become a physician's assistant while performing duties assigned as part of the training.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

PART 176.
SPEECH-LANGUAGE PATHOLOGY

333.17601 Definitions; limitation on scope of practice.

Sec. 17601.

(1) As used in this part:

(a) "Practice of speech-language pathology", subject to subsection (2), means the application of principles, methods, and procedures related to the development of disorders of human communication including the following:

(i) Identifying by history or nonmedical physical examination, assessing, treating with therapy, rehabilitating, and preventing disorders of speech, voice, and language.

(ii) Identifying by history or nonmedical physical examination, assessing, treating with therapy, rehabilitating, and preventing disorders of oral-pharyngeal function and disorders related to swallowing dysfunction.

(iii) Identifying by history or nonmedical physical examination, assessing, treating with therapy, rehabilitating, and preventing cognitive-communicative disorders.

(iv) Assessing, selecting, and developing augmentative and alternative communication systems and providing training in their use.

(v) Providing speech-language treatment or therapy and related counseling services to deaf, deafblind, and hard of hearing persons and their families.

(vi) Enhancing speech-language proficiency and communication effectiveness.

(vii) Screening of hearing for the purpose of speech-language assessment provided that judgments and descriptive statements about results of that screening are limited to pass-fail determinations.

(b) "Speech-language pathologist" means an individual who is engaged in the practice of speech-language pathology.

(2) Practice of speech-language pathology does not include either of the following:

(a) The practice of medicine or osteopathic medicine and surgery or medical diagnosis, medical management with medication, surgical interventions, ordering medical testing, or medical treatment.

(b) The fitting and dispensing of hearing aids under article 13 of the occupational code, 1980 PA 299, MCL 339.1301 to 339.1309.

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

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009 ;-- Am. 2016, Act 238, Eff. Sept. 22, 2016
Popular Name: Act 368

333.17603 Use of certain titles or words.

Sec. 17603.

Beginning the effective date of this part, an individual shall not use the titles "speech-language pathologist", "speech pathologist", "speech therapist", "speech correctionist", "speech clinician", "language therapist", "language pathologist", "logopedist", "communicologist", "aphasiologist", "phoniatrist", "voice therapist", and "voice pathologist", or similar words that indicate that the individual is a speech-language pathologist, unless the individual is licensed under this part as a speech-language pathologist.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009
Popular Name: Act 368

333.17605 Michigan board of speech-language pathology; creation; membership; qualifications; terms.

Sec. 17605.

(1) The Michigan board of speech-language pathology is created in the department and consists of the following 11 members who meet the requirements of part 161:

(a) Six individuals who meet the requirements of section 16135(2), at least 1 of whom represents each professional area described in section 17609.

(b) Three public members.

(c) Two physicians, 1 of whom is a board-certified otolaryngologist.

(2) The terms of office of individual members of the board created under this part, except those appointed to fill vacancies and as otherwise provided in this subsection, expire 4 years after appointment on December 31 of the year in which the term expires. However, for the members first appointed, 2 shall serve for 1 year, 3 shall serve for 2 years, 3 shall serve for 3 years, and 3 shall serve for 4 years.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009
Compiler's Notes: For the reduction of the membership of the Michigan board of speech-language pathology from 11 to 9 and revision of the membership requirements, see E.R.O. No. 2024-2, compiled at MCL 16.735.
Popular Name: Act 368

333.17607 Speech-language pathology; license required; restrictions.

Sec. 17607.

(1) An individual shall not engage in the practice of speech-language pathology unless licensed under this part.

(2) A licensee shall not perform an act, task, or function within the practice of speech-language pathology unless he or she is trained to perform the act, task, or function and the performance of that act, task, or function is consistent with the rules promulgated under section 17610(3). A speech-language pathologist shall refer a patient to an individual licensed in the practice of medicine or osteopathic medicine and surgery if signs or symptoms identified during the practice of speech-language pathology cause the speech-language pathologist to suspect that the patient has an underlying medical condition.

(3) A licensee shall perform assessment, treatment or therapy, and procedures related to swallowing disorders and medically related communication disorders only on patients who have been referred to him or her by an individual licensed in the practice of medicine or osteopathic medicine and surgery or by an advanced practice registered nurse as that term is defined in section 17201.

(4) A licensee shall only perform diagnostic testing, such as endoscopic videolaryngostroboscopy, in collaboration with or under the supervision of an individual licensed in the practice of medicine or osteopathic

medicine and surgery.

(5) A licensee shall follow procedures in which collaboration among the licensee and an individual licensed in the practice of medicine or osteopathic medicine and surgery and other licensed health care professionals is regarded to be in the best interests of the patient.

(6) Subsection (1) does not prevent any of the following:

(a) An individual licensed or registered under any other part or act from performing activities that are considered speech-language pathology services if those activities are within the individual's scope of practice and if the individual does not use the titles protected under section 17603.

(b) The practice of speech-language pathology that is an integral part of a program of study by students enrolled in an accredited speech-language pathology educational program approved by the board, if those individuals are identified as students and provide speech-language pathology services only while under the supervision of a licensed speech-language pathologist.

(c) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a licensed speech-language pathologist.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009 ;-- Am. 2016, Act 499, Eff. Apr. 9, 2017
Popular Name: Act 368

333.17609 License; issuance requirements; eligibility of certified teacher endorsed in speech and language impairment or individual credentialed by American Speech-Language-Hearing Association; temporary license.

Sec. 17609.

(1) The department shall, upon submission of a completed application and payment of the appropriate application processing and license fee, issue a license under this part to the following:

(a) An individual who meets the requirements of subsection (2) or (3).

(b) An individual who possesses a master's or doctor of science or doctor of philosophy degree in speech-language pathology acceptable to the board, who has successfully completed an accredited speech-language pathology training program approved by the department and the board that has at least 9 months, or the equivalent, of full-time supervised postgraduate clinical experience in speech-language pathology, and who passes an examination acceptable to the board.

(2) A certified teacher who, on January 12, 2009, was endorsed in the area of speech and language impairment for the sole purpose of providing services as a part of employment or contract with a school district, intermediate school district, nonpublic school, or state department that provides educational services is eligible for a license under this part. An individual who meets the requirements of this subsection shall first apply for a license on or before the expiration of 2 years after the effective date of the rules promulgated under this part. An individual who obtains a license under this subsection is eligible for renewal of that license under this part if he or she continues to meet the requirements of this subsection.

(3) An individual who, on January 12, 2009, has the credential conferred by the American Speech-Language-Hearing Association as a certified speech-language pathologist is eligible for a license under this part. An individual who meets the requirements of this subsection and who maintains the credential conferred by the American Speech-Language-Hearing Association or a successor credential conferred by its successor organization shall first apply for a license on or before the expiration of 2 years after the effective date of the rules promulgated under this part. An individual who obtains a license under this subsection is eligible for renewal of that license under this part if he or she continues to meet the requirements of this subsection.

(4) An individual may apply for a temporary license under this subsection for the purpose of completing a supervised postgraduate clinical experience. The department shall issue a temporary license under this subsection for a period not to exceed 24 months. A temporary license issued under this subsection may be renewed for 1 additional 12-month term if the applicant continues to meet the requirements of this subsection. An individual seeking a temporary license under this subsection shall obtain a temporary license before beginning the supervised postgraduate clinical experience. At the conclusion of the postgraduate clinical experience, the individual's supervisor shall sign and submit to the department a report that documents the individual's satisfactory completion of the supervised postgraduate clinical experience. To be eligible for a temporary license under this subsection, an applicant must meet all of the following requirements:

(a) Possess a master's or doctor of science or doctor of philosophy degree in speech-language pathology acceptable to the board. An applicant shall have his or her academic transcripts provided directly to the department

by the academic institution.

(b) Submit a plan for supervised postgraduate clinical experience on a form approved by the board and signed by a licensed professional who will provide supervision.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009 ;-- Am. 2010, Act 304, Imd. Eff. Dec. 17, 2010 ;-- Am. 2024, Act 57, Eff. Apr. 2, 2025
Popular Name: Act 368

333.17610 Rules.

Sec. 17610.

(1) The department, in consultation with the board, may promulgate rules under section 16145 as necessary or appropriate to fulfill its functions under this article and to supplement the requirements for licensure under this part, including adopting updated standards of that organization or standards of any successor organization of the American speech-language-hearing association.

(2) Subject to section 16204, the department shall by rule prescribe continuous professional development as a condition for licensure renewal.

(3) The department, in consultation with the board, shall promulgate rules regarding the performance of speech-language pathology that includes, but is not limited to, the performance of procedures described in section 17601(1)(a)(ii). The rules shall recognize and incorporate the requirements described in section 17607(3) and (4) and the need for collaboration among a speech-language pathologist and a person licensed in the practice of medicine or osteopathic medicine and surgery and other licensed health care professionals.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009
Popular Name: Act 368

333.17611 Applicant from another state.

Sec. 17611.

The department may issue a license by endorsement to an applicant from another state that has licensure requirements substantially equivalent to this part, as determined by the board.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009
Popular Name: Act 368

333.17613 Third-party endorsement or mandated worker's compensation benefits.

Sec. 17613.

This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed under this part.

History: Add. 2008, Act 524, Imd. Eff. Jan. 13, 2009
Popular Name: Act 368

333.17701 Meanings of words and phrases; general definitions and principles of construction.

Sec. 17701.

(1) For purposes of this part the words and phrases defined in sections 17702 to 17709 have the meanings ascribed to them in those sections.

(2) In addition, 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.

History: 1978, Act 368, Eff. Sept. 30, 1978
Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Popular Name: Act 368

333.17702 Definitions; A to C.

Sec. 17702.

(1) "Agent" means an individual designated by a prescriber to act on behalf of or at the discretion of that prescriber as provided in section 17744.

(2) "Automated device" means a mechanical system that performs an operation or activity, other than compounding or administration, relating to the storage, packaging, dispensing, or delivery of a drug and that collects, controls, and maintains transaction information.

(3) "Biological drug product" means a biological product as that term is defined in 42 USC 262.

(4) "Brand name" means the registered trademark name given to a drug product by its manufacturer.

(5) Except as otherwise provided in subsection (6), "compounding" means the preparation, mixing, assembling, packaging, and labeling of a drug or device by a pharmacist under the following circumstances:

(a) Upon the receipt of a prescription for a specific patient.

(b) Upon the receipt of a medical or dental order from a prescriber or agent for use in the treatment of patients within the course of the prescriber's professional practice.

(c) In anticipation of the receipt of a prescription or medical or dental order based on routine, regularly observed prescription or medical or dental order patterns.

(d) For the purpose of or incidental to research, teaching, or chemical analysis and not for the purpose of sale or dispensing.

(6) "Compounding" does not include any of the following:

(a) Except as provided in section 17748c, the compounding of a drug product that is essentially a copy of a commercially available product.

(b) The reconstitution, mixing, or other similar act that is performed pursuant to the directions contained in approved labeling provided by the manufacturer of a commercially available product.

(c) The compounding of allergenic extracts or biologic products.

(7) "Compounding pharmacy" means a pharmacy that is licensed under this part and is authorized to offer compounding services under sections 17748, 17748a, and 17748b.

(8) "Current selling price" means the retail price for a prescription drug that is available for sale from a pharmacy.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 304, Eff. Mar. 31, 1987 ;-- Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007 ;-- Am. 2012, Act 209, Imd. Eff. June 27, 2012 ;-- Am. 2014, Act 280, Eff. Sept. 30, 2014 ;-- Am. 2016, Act 528, Eff. Apr. 9, 2017 ;-- Am. 2018, Act 41, Eff. May 29, 2018
Popular Name: Act 368

333.17703 Definitions; D, E.

Sec. 17703.

(1) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a drug or device from 1 person to another.

(2) "Device" means an instrument, apparatus, or contrivance, including its components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals, or to affect the structure or function of the body of human beings or other animals.

(3) "Dispense" means the preparation, compounding, packaging, or labeling of a drug pursuant to any of the following:

(a) A prescription.

(b) An authorization issued by a prescriber.

(c) Section 17724a or 17744f.

(4) "Dispensing prescriber" means a prescriber, other than a veterinarian, who dispenses prescription drugs.

(5) Except as otherwise provided in section 17780, "distribute" or "distribution" means to sell, offer for sale, deliver, offer to deliver, broker, give away, or transfer a drug, whether by passage of title or physical movement. The term does not include any of the following:

(a) Dispensing or administering a drug.

(b) The delivery of a drug, or offering to deliver a drug, by a common carrier in the usual course of business as a common carrier.

(c) The delivery of a drug via an automated device under section 17760.

(6) "Drug" means any of the following:

(a) A substance recognized or for which the standards or specifications are prescribed in the official compendium.

(b) A substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or other animals.

(c) A substance, other than food, intended to affect the structure or a function of the body of human beings or other animals.

(d) A substance intended for use as a component of a substance specified in subdivision (a), (b), or (c), but not including a device or its components, parts, or accessories.

(7) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(8) "Electronically transmitted prescription" means the communication of an original prescription or refill authorization by electronic means including computer to computer, computer to facsimile machine, or email transmission that contains the same information it contained when the prescriber or the prescriber's agent transmitted the prescription. Electronically transmitted prescription does not include a prescription or refill authorization transmitted by telephone or facsimile machine.

(9) "Emergency contraceptive" means a drug approved by the FDA to prevent pregnancy as soon as possible following unprotected sexual intercourse or a known or suspected contraceptive failure.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1980, Act 431, Eff. Mar. 31, 1981 ;-- Am. 1992, Act 281, Imd. Eff. Dec. 18, 1992 ;-- Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007 ;-- Am. 2012, Act 209, Imd. Eff. June 27, 2012 ;-- Am. 2014, Act 285, Eff. Dec. 22, 2014 ;-- Am. 2016, Act 528, Eff. Apr. 9, 2017 ;-- Am. 2021, Act 36, Imd. Eff. July 1, 2021 ;-- Am. 2023, Act 97, Imd. Eff. July 19, 2023 ;-- Am. 2024, Act 242, Eff. Apr. 2, 2025

Popular Name: Act 368

333.17704 Definitions; F to I.

Sec. 17704.

(1) "Federal act" means the federal food, drug, and cosmetic act, 21 USC 301 to 399i.

(2) "Food and Drug Administration" or "FDA" means the United States Food and Drug Administration.

(3) "Generic name" means the established or official name of a drug or drug product.

(4) "Harmful drug" means a drug intended for use by human beings that is harmful because of its toxicity, habit-

forming nature, or other potential adverse effect; the method of its use; or the collateral measures necessary to its safe and effective use and that is designated as harmful by a rule promulgated under this part.

(5) "Hormonal contraceptive patch" means a transdermal patch applied to the skin of an individual that releases a drug composed of a combination of hormones that is approved by the FDA to prevent pregnancy.

(6) "Interchangeable biological drug product" means either of the following, as applicable:

(a) A biological drug product that is licensed by the FDA and that the FDA has determined meets the standards for interchangeability under 42 USC 262(k)(4).

(b) Until March 23, 2021, a biological drug product that the FDA has determined to be therapeutically equivalent as set forth in "Approved Drug Products with Therapeutic Equivalence Evaluations", an FDA publication that is commonly referred to as the "Orange Book".

(7) "Internship" means an educational program of professional and practical experience for an intern.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2014, Act 280, Eff. Sept. 30, 2014 ;-- Am. 2018, Act 41, Eff. May 29, 2018 ;-- Am. 2024, Act 242, Eff. Apr. 2, 2025
Popular Name: Act 368

333.17705 Definitions; L.

Sec. 17705.

(1) "Label" means a display of written, printed, or graphic matter on the immediate container of a drug or device, but does not include package liners. A requirement made by or under authority of this part that a word, statement, or other information appear on the label is not complied with unless the word, statement, or other information appears on the outside container or wrapper of the retail package of the drug or device as displayed for sale or is easily legible through an outside container or wrapper.

(2) "Labeling" means the labels and other written, printed, or graphic matter on a drug or device or its container or wrapper, or accompanying the drug or device.

(3) "License" in addition to the definition in section 16106 means a pharmacy license, drug control license, or a manufacturer, wholesale distributor, or wholesale distributor-broker of drugs or devices license.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 304, Eff. Mar. 31, 1987 ;-- Am. 2020, Act 142, Imd. Eff. July 14, 2020
Popular Name: Act 368

333.17706 Definitions; M, O.

Sec. 17706.

(1) "Manufacturer" means a person that prepares, produces, derives, propagates, compounds, processes, packages, or repackages a drug or device salable on prescription only, or otherwise changes the container or the labeling of a drug or device salable on prescription only, and that supplies, distributes, sells, offers for sale, barters, or otherwise disposes of that drug or device and any other drug or device salable on prescription only, to another person for resale, compounding, or dispensing. Manufacturer does not include a pharmacy unless the pharmacy meets the requirements described in section 17748f.

(2) "Official compendium" means the United States Pharmacopoeia and the National Formulary, or the Homeopathic Pharmacopoeia of the United States, as applicable. If an official compendium is revised after September 30, 2014, the department shall officially take notice of the revision. Within 30 days after taking notice of the revision, the department, in consultation with the board, shall decide whether the revision continues to protect the public health as it relates to the manner that the official compendium is used in this act. If the department, in consultation with the board, decides that the revision continues to protect the public health, the department may issue an order to incorporate the revision by reference. If the department issues an order under this subsection to

incorporate the revision by reference, the department shall not make any changes to the revision.

(3) "Outsourcing facility" means that term as defined in 21 USC 353b.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 304, Eff. Mar. 31, 1987 ;-- Am. 2014, Act 280, Eff. Sept. 30, 2014 ;-- Am. 2020, Act 142, Imd. Eff. July 14, 2020
Popular Name: Act 368

333.17707 Definitions; P.

Sec. 17707.

(1) "Parent pharmacy" means a pharmacy that operates a remote pharmacy through a telepharmacy system.

(2) "Personal charge" means the immediate physical presence of a pharmacist or dispensing prescriber.

(3) "Pharmacist" means an individual who is licensed under this article to engage in the practice of pharmacy.

(4) "Pharmacist in charge" or "PIC" means the pharmacist who is designated by a pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker as its pharmacist in charge under section 17748(2).

(5) "Pharmacist intern" or "intern" means an individual who satisfactorily completes the requirements set forth in rules promulgated by the department in consultation with the board and is licensed by the board for the purpose of obtaining instruction in the practice of pharmacy from a preceptor approved by the board.

(6) "Pharmacy" means a facility or part of a facility that is licensed under this part to dispense prescription drugs or prepare prescription drugs for delivery or distribution. Pharmacy does not include the office of a dispensing prescriber or an automated device. For the purpose of a duty placed on a pharmacy under this part, "pharmacy" means the person to which the pharmacy license is issued, unless otherwise specifically provided.

(7) "Pharmacy technician" means an individual who is required to hold a health profession subfield license under this part to serve as a pharmacy technician.

(8) "Practice of pharmacy" means a health service, the clinical application of which includes the encouragement of safety and efficacy in the prescribing, dispensing, administering, and use of drugs and related articles for the prevention of illness, and the maintenance and management of health. Practice of pharmacy includes the direct or indirect provision of professional functions and services associated with the practice of pharmacy. Professional functions associated with the practice of pharmacy include the following:

(a) The interpretation and evaluation of the prescription.

(b) Drug product selection.

(c) The compounding, dispensing, safe storage, and distribution of drugs and devices.

(d) The maintenance of legally required records.

(e) Advising the prescriber and the patient as required as to contents, therapeutic action, utilization, and possible adverse reactions or interactions of drugs.

(f) Ordering and administering qualified immunizing agents in accordance with section 17724.

(g) Ordering and administering qualified laboratory tests in accordance with section 17724a.

(h) Issuing prescriptions for hormonal contraceptive patches, self-administered hormonal contraceptives, emergency contraceptives, and vaginal ring hormonal contraceptives in accordance with section 17744g.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1990, Act 333, Eff. Mar. 28, 1991 ;-- Am. 2014, Act 280, Eff. Sept. 30, 2014 ;-- Am. 2014, Act 285, Eff. Dec. 22, 2014 ;-- Am. 2016, Act 528, Eff. Apr. 9, 2017 ;-- Am. 2020, Act 4, Eff. Apr. 26, 2020 ;-- Am. 2020, Act 142, Imd. Eff. July 14, 2020 ;-- Am. 2023, Act 97, Imd. Eff. July 19, 2023 ;-- Am. 2024, Act 242, Eff. Apr. 2, 2025
Popular Name: Act 368

333.17708 Definitions; P to R; limitation on prescription of pharmacological agents.

Sec. 17708.

(1) "Preceptor" means a pharmacist approved by the board to direct the training of an intern in an approved pharmacy.

(2) "Prescriber" means a licensed dentist; a licensed doctor of medicine; a licensed doctor of osteopathic medicine and surgery; a licensed doctor of podiatric medicine and surgery; a licensed physician's assistant; subject to part 174, a licensed optometrist; subject to section 17211a, an advanced practice registered nurse; a licensed veterinarian; subject to subsection (7), a registered professional nurse who holds a specialty certification as a nurse anesthetist under section 17210 when engaging in the practice of nursing and providing the anesthesia and analgesia services described in section 17210(3); or any other licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery. As used in this subsection:

(a) "Advanced practice registered nurse" means that term as defined in section 17201 and includes a licensed advanced practice registered nurse.

(b) "License" means that term as defined in section 16106 and includes an authorization issued under the laws of another state or province of Canada to practice a profession described in this subsection in that state or province of Canada where practice would otherwise be unlawful.

(3) "Prescription" means an order by a prescriber to fill, compound, or dispense a drug or device written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication. An order transmitted in other than written or hard-copy form must be electronically recorded, printed, or written and immediately dated by the pharmacist, and that record is considered the original prescription. In a health facility or agency licensed under article 17 or other medical institution, an order for a drug or device in the patient's chart is considered for the purposes of this definition the original prescription. For purposes of this part, prescription also includes a standing order issued under section 17744e and an order to dispense a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive issued by a pharmacist under section 17744g. Subject to section 17751(2) and (5), prescription includes, but is not limited to, an order for a drug, not including a controlled substance except under circumstances described in section 17763(e), written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a prescriber in another state or province of Canada.

(4) Subject to subsection (5), "prescription drug" means a drug to which 1 or more of the following apply:

(a) The drug is dispensed pursuant to a prescription.

(b) The drug bears the federal legend "CAUTION: federal law prohibits dispensing without prescription" or "Rx only".

(c) The drug is designated by the board as a drug that may only be dispensed pursuant to a prescription.

(5) For purposes of this part, prescription drug also includes a drug dispensed pursuant to section 17724a or 17744f.

(6) "Remote pharmacy" means a pharmacy described in sections 17742a and 17742b.

(7) The authority of a registered professional nurse who holds a specialty certification as a nurse anesthetist under section 17210 to prescribe pharmacological agents is limited to pharmacological agents for administration to patients as described in section 17210(3)(b), (c), or (d). Subsection (2) does not require new or additional third party reimbursement or mandated worker's compensation benefits for anesthesia and analgesia services provided under section 17210(3) by a registered professional nurse who holds a specialty certification as a nurse anesthetist under section 17210.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1994, Act 384, Eff. Mar 30, 1995 ;-- Am. 1997, Act 153, Eff. Mar. 31, 1998 ;-- Am. 2005, Act 85, Imd. Eff. July 19, 2005 ;-- Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007 ;-- Am. 2009, Act 150, Imd. Eff. Nov. 19, 2009 ;-- Am. 2011, Act 155, Imd. Eff. Sept. 27, 2011 ;-- Am. 2012, Act 209, Imd. Eff. June 27, 2012 ;-- Am. 2016, Act 49, Eff. June 13, 2016 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017 ;-- Am. 2016, Act 383, Eff. Mar. 28, 2017 ;-- Am. 2016, Act 499, Eff. Apr. 9, 2017 ;-- Am. 2020, Act 4, Eff. Apr. 26, 2020 ;-- Am. 2021, Act 36, Imd. Eff. July 1, 2021 ;-- Am. 2021, Act 53, Eff. Oct. 11, 2021 ;-- Am. 2022, Act 80, Eff. Mar. 29, 2023 ;-- Am. 2023, Act 97, Imd. Eff. July 19, 2023 ;-- Am. 2024, Act 242, Eff. Apr. 2, 2025

Compiler's Notes: Enacting section 1 of Act 49 of 2016 provides:"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."

Popular Name: Act 368

333.17709 Definitions; S to W.

Sec. 17709.

(1) "Self-administered hormonal contraceptive" means a drug composed of a single hormone or combination of hormones that is approved by the FDA to prevent pregnancy and that the individual to whom the drug is prescribed may take orally, inject, or otherwise self-administer.

(2) "Sign" means to affix one's signature manually to a document or to use an electronic signature when transmitting a prescription electronically.

(3) "Sterile pharmaceutical" means a dosage form of a drug that is essentially free from living microbes and chemical or physical contamination to the point at which it poses no present risk to the patient, in accordance with USP standards. As used in this subsection, "dosage form" includes, but is not limited to, parenteral, injectable, and ophthalmic dosage forms.

(4) "Substitute" means to dispense, without the prescriber's authorization, a different drug in place of the drug prescribed.

(5) "Surveillance system" means a real-time, continuous audio and visual camera system that connects a pharmacist at a parent pharmacy with a remote pharmacy for the purposes of providing oversight and security surveillance.

(6) "Telepharmacy system" means an interoperable computer system that meets all of the following requirements:

(a) Shares real-time data and uses a real-time audio and video link to connect a pharmacist at a parent pharmacy with a remote pharmacy operated by the parent pharmacy.

(b) Uses a camera that is of sufficient quality and resolution to allow a pharmacist at a parent pharmacy who is reviewing a prescription to visually identify the markings on tablets and capsules at the remote pharmacy.

(7) "USP standards" means the pharmacopeial standards for drug substances, dosage forms, and compounded preparations based on designated levels of risk as published in the official compendium.

(8) "Wholesale distributor" means a person, other than a manufacturer or wholesale distributor-broker, that supplies, distributes, sells, offers for sale, barters, or otherwise disposes of, to other persons for resale, compounding, or dispensing, a drug or device salable on prescription only that the distributor has not prepared, produced, derived, propagated, compounded, processed, packaged, or repackaged, or otherwise changed the container or the labeling of the drug or device. A wholesale distributor does not include a pharmacy unless the pharmacy meets the requirements of section 17748f.

(9) "Wholesale distributor-broker" means a person that meets both of the following:

(a) The person facilitates the delivery or trade of a drug or device salable on prescription only, other than a controlled substance, between pharmacies, or between a pharmacy and a qualified pharmacy as that term is defined in section 17748e, for the purpose of filling a prescription for an identified patient.

(b) The person does not take possession or ownership of a drug or device salable on prescription only or coordinate warehousing of the drug or device.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007 ;-- Am. 2014, Act 280, Eff. Sept. 30, 2014 ;-- Am. 2020, Act 4, Eff. Apr. 26, 2020 ;-- Am. 2020, Act 142, Imd. Eff. July 14, 2020 ;-- Am. 2024, Act 242, Eff. Apr. 2, 2025
Popular Name: Act 368

333.17711 Practice of pharmacy or pharmacy technician; license or authorization required; use of words, titles, or letters.

Sec. 17711.

(1) An individual shall not engage in the practice of pharmacy unless licensed or otherwise authorized by this article. Beginning October 1, 2015, an individual shall not serve as a pharmacy technician unless licensed or otherwise authorized by this article.

(2) The following words, titles, or letters or a combination of words, titles, or letters, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: "pharmacy", "pharmacist", "Pharm.D", "doctor of pharmacy", "pharmacy intern", "pharmacy technician", "licensed pharmacy technician", "certified pharmacy technician", "CPhT", "apothecary", "dispensary", "drugstore", "druggist", "medicine store", "prescriptions", and "r.ph.".

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2006, Act 390, Imd. Eff. Sept. 27, 2006 ;-- Am. 2014, Act 285, Eff. Dec. 22, 2014 ;-- Am. 2014, Act 413, Eff. Mar. 30, 2015 ;-- Am. 2015, Act 91, Imd. Eff. June 25, 2015

333.17713 Temporary regulations of pharmacists and prescriptions during qualified order or declaration; definitions.

Sec. 17713.

(1) Notwithstanding any provision of this article or rule promulgated under this article to the contrary, beginning on December 29, 2020, all of the following apply while a qualified order or declaration is in effect:

(a) A pharmacist may temporarily operate a pharmacy in a location that is not designated on a pharmacy license. However, the pharmacy described in this subdivision may not prepare a sterile drug product beyond a low-risk preparation, as defined by USP standards, for immediate inpatient administration.

(b) A pharmacist may substitute a therapeutically equivalent drug for a drug that is the subject of a critical shortage. A pharmacist substituting a drug under this subdivision shall inform the patient of the substitution and notify the prescriber of the substitution within a reasonable period of time. A prescriber is not subject to criminal prosecution, civil liability, or administrative sanction as a result of a pharmacist's substitution under this subdivision.

(c) A preceptor may supervise a student pharmacist remotely to fulfill eligibility requirements for licensure and to avoid a delay in graduation.

(d) A pharmacist may oversee a pharmacy technician and other pharmacy staff remotely through the use of a real-time, continuous audiovisual camera system that is capable of allowing the pharmacist to visually identify the markings on tablets and capsules. The pharmacist must have access to all relevant patient information to accomplish remote oversight and must be available at all times during the oversight to provide real-time patient consultation. A pharmacy technician shall not perform sterile or nonsterile compounding without a pharmacist on the premises.

(e) An out-of-state pharmacy that is in good standing is considered licensed to do business in this state. An out-of-state pharmacy shall not deliver a controlled substance into this state, except that, notwithstanding article 7 or any rule promulgated under that article, an out-of-state pharmacy may deliver a controlled substance that is compounded for a drug shortage, as determined by the FDA. An out-of-state pharmacy shall comply with this part and the rules promulgated by this part, except that an out-of-state pharmacy is not required to designate a pharmacist in charge for the out-of-state pharmacy. To provide sterile compounding services to a patient in this state, an out-of-state pharmacy shall hold a current accreditation from a national organization approved by the board.

(f) A manufacturer or wholesale distributor that is licensed in another state is considered to be licensed to do business in this state. Notwithstanding article 7 or any rule promogulated under that article, a manufacturer or wholesale distributor that holds a license in good standing in another state may temporarily distribute a controlled substance in this state to a hospital or to a manufacturer or wholesale distributor that is licensed under this part. An out-of-state license described in this subdivision is not considered to be in good standing for purposes of this subdivision if it has been suspended or revoked or is the subject of pending disciplinary action in another state. If an out-of-state license described in this subdivision contains restrictions or conditions, those restrictions or conditions apply in this state for purposes of this subdivision.

(g) A pharmacy may confirm the delivery of a prescription drug, excluding a controlled substance, to a patient by any reasonable means, including, but not limited to, a telephone call, a text message, or email.

(2) As used in this section:

(a) "Out-of-state pharmacy" means a facility or part of a facility that is located outside of this state and that is licensed in another state to dispense prescription drugs or prepare prescription drugs for delivery or distribution.

(b) "Qualified epidemic" means an epidemic involving a respiratory disease that can easily spread between individuals and may result in serious illness or death.

(c) "Qualified order or declaration" means 1 of the following issued in response to a qualified epidemic:

(i) An emergency order under section 2253.

(ii) A state of disaster or state of emergency declared under the emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

History: Add. 2020, Act 324, Imd. Eff. Dec. 29, 2020 ;-- Am. 2023, Act 97, Imd. Eff. July 19, 2023
Popular Name: Act 368

333.17721 Michigan board of pharmacy; creation; membership; terms.

Sec. 17721.

(1) The Michigan board of pharmacy is created in the department and consists of the following 11 voting members who meet the requirements of part 161:

(a) Six pharmacists.

(b) One pharmacy technician.

(c) Four public members.

(2) The terms of office of the individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 390, Imd. Eff. Sept. 27, 2006 ;-- Am. 2014, Act 285, Eff. Dec. 22, 2014
Popular Name: Act 368

333.17722 Michigan board of pharmacy; duties generally.

Sec. 17722.

In addition to the functions set forth in part 161, except as otherwise provided in this part, the board shall do the following:

(a) Regulate, control, and inspect the character and standard of pharmacy practice and of drugs and devices manufactured, distributed, prescribed, dispensed, administered, or issued in this state and procure samples and limit or prevent the sale of drugs and devices that do not comply with this part.

(b) Prescribe minimum criteria for the use of professional and technical equipment and references in the compounding and dispensing of drugs and devices.

(c) Grant a pharmacy license for each separate place of practice in which the compounding or dispensing of prescription drugs or devices, or both, or the receiving of prescription orders in this state is to be conducted.

(d) Grant a drug control license for the place of practice of a dispensing prescriber who meets the requirements for the license.

(e) Grant a license to a manufacturer, wholesale distributor, or wholesale distributor-broker that meets the requirements for the license.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2020, Act 4, Eff. Apr. 26, 2020 ;-- Am. 2020, Act 142, Imd. Eff. July 14, 2020
Popular Name: Act 368
Admin Rule: R 338.3971 et seq. of the Michigan Administrative Code.

333.17723 Pilot project to maintain or improve patient care in delivery of pharmacy services and improving patient outcomes.

Sec. 17723.

(1) Subject to this section, the board may approve a pilot project that is designed to utilize new or expanded technology or processes and to provide patients with better pharmacy products or provide pharmacy services in a more efficient manner. The board shall ensure that a pilot project it approves under this section is focused on maintaining or improving patient care in the delivery of pharmacy services and improving patient outcomes. The department may charge petitioners a filing fee sufficient to cover the department's costs incurred while administering and monitoring the pilot project under this section.

(2) The department shall do all of the following:

(a) Establish and administer a process to receive, review, and accept or deny petitions for proposed pilot projects.

(b) Establish time frames for the receipt, review, and approval or denial of petitions for proposed pilot projects.

(c) Designate the individuals who will review and evaluate petitions for proposed pilot projects.

(3) The board shall not approve more than 10 pilot projects under this section. If it determines necessary, the board or department may further limit the number of approved pilot projects based on the scope and type of petitions for proposed pilot projects received.

(4) The board shall not approve a pilot project that does any of the following:

(a) Expands the definition of the practice of pharmacy.

(b) Provides for the therapeutic substitution or substitution of medical devices used in patient care.

(c) Allows a pharmacy or pharmacist to be involved with a pilot project if the pharmacy's or pharmacist's license is not current or is under investigation for or subject to a sanction for a violation of this act.

(5) The department, in consultation with the board, may grant to a petitioner conducting an approved pilot project under this section an exception to a rule promulgated under this part. The department shall not grant an exception under this subsection from any law relating to the practice of pharmacy. The department shall grant an exception under this subsection for a specified period of time, which period must not exceed 18 months unless extended under subsection (12).

(6) A petitioner who wishes the board to consider a pilot project for approval under this section shall submit to the department a petition that contains all of the following information:

(a) The name, address, telephone number, electronic mail address, and Michigan license number of the pharmacist responsible for overseeing the proposed pilot project.

(b) The specific location where the proposed pilot project will be conducted. The petitioner shall include the Michigan license number of the pharmacy and a statement that the Michigan license of the pharmacy and any pharmacist involved with the pilot project is current, is not under investigation for or subject to a sanction for a violation of this act, and will remain in good standing for the duration of the pilot project.

(c) A detailed summary of the proposed pilot project that includes all of the following:

(i) The goals, hypothesis, and objectives, as applicable, of the proposed pilot project.

(ii) A full explanation of the proposed pilot project and how the project will be conducted.

(iii) The initial time frame for the pilot project, including the proposed start date and length of the project, which initial time frame must not exceed 18 months.

(iv) All background information and literature review, as applicable, to support the proposed pilot project.

(v) If applicable, identification of the rules promulgated under this part from which the petitioner is requesting an exception as provided in subsection (5) in order to complete the proposed pilot project and a request for that exception.

(vi) If applicable, procedures the petitioner will use during the proposed pilot project to ensure that the public's health and safety are not compromised as a result of an exception to a rule being granted under subsection (5).

(vii) The procedures the petitioner will use to protect the identity and privacy of patients in accordance with existing federal and state law and consistent with regulations promulgated under the health insurance portability and accountability act of 1996, Public Law 104-191.

(7) Upon approval of a petition for a pilot project, the department shall specify a time period for the operation of that pilot project, which period must not exceed 18 months unless extended under subsection (11). The department, in consultation with the board, may include appropriate conditions or qualifications on the approval of a pilot project. The department or board may suspend the operation of a pilot project if it determines that the petitioner or any person involved with the pilot project has deviated the operation of the pilot project from the plan of operation that was approved.

(8) If determined appropriate for the pilot project approved under this section, the board or department may require the petitioner to notify patients that pharmacy services are being provided as part of a pilot project. If required under this subsection, the petitioner shall notify patients in the manner required by the board or department.

(9) The petitioner shall allow the department to inspect and review pilot project documentation and the pilot project site at any time during the review process and after the pilot project is approved. The pharmacist responsible for overseeing an approved pilot project shall forward all of the following to the department:

(a) Progress reports at intervals specified by the department.

(b) A summary of the results of the project and conclusions drawn from the results of the project within 3 months after completion of the pilot project.

(10) The individuals designated to review and evaluate petitions under subsection (2)(c) shall review the progress reports and the summary of the results of the pilot project submitted under subsection (9). Within 90 days after receipt of the summary of the results of the pilot project under subsection (9), the individuals designated to review and evaluate petitions under subsection (2)(c) shall submit a written report to the department regarding the results of the pilot project. The department shall provide a copy of the written report submitted under this

subsection to the board. The individuals designated to review and evaluate petitions under subsection (2)(c) shall submit a copy of the written report to the petitioner at least 2 weeks before the board meeting at which the report will be considered by the board. Upon the request of the petitioner, the board shall allow the petitioner to make a presentation to the board.

(11) If determined appropriate by the board at the meeting at which the written report is considered under subsection (10), and if approved by the department, the specified period of time for conducting a pilot project under subsection (7) may be extended for an additional period of up to 18 months. The board or department shall not grant an extension that would result in a specified period of time for conducting a pilot project under this section to exceed 36 months.

(12) If the department, in consultation with the board, determines that a pilot project for which an exception to a rule has been granted under subsection (5) should be extended so that rules may be promulgated in order to allow the pilot project to be conducted on a permanent basis, the department may extend the exception to the rule for an additional period of up to 18 months.

History: Add. 2013, Act 267, Eff. Mar. 30, 2014
Popular Name: Act 368

333.17724 Ordering and administration of qualified immunizing agent by pharmacist; requirements and duties; promulgation of rules; exception emergency order; definitions.

Sec. 17724.

(1) Subject to this section, a pharmacist may, without acting under the direction of a physician, order and administer a qualified immunizing agent to an individual who is 3 years of age or older.

(2) Before ordering or administering a qualified immunizing agent under this section, a pharmacist shall comply with all of the following:

(a) Successfully complete a training program approved under subsection (4).

(b) If the pharmacist is ordering a qualified immunizing agent for or administering a qualified immunizing agent to an individual who is less than 19 years of age and the pharmacy does not participate in the Vaccines for Children Program administered by the Centers for Disease Control and Prevention, inform the individual that the individual may qualify for the Vaccines for Children Program and notify the individual of local providers that participate in the program. This subdivision does not apply if a public or private third-party payer provides coverage for the cost of ordering or administering the qualified immunizing agent to the individual.

(3) A pharmacist who administers a qualified immunizing agent under this section shall do all of the following:

(a) Comply with rules promulgated under this section in addition to any other requirement established by law.

(b) If the qualified immunizing agent is administered to an individual who is 20 years of age or older, report the administration of the qualified immunizing agent to the Michigan care improvement registry within 72 hours after administering the qualified immunizing agent in the same manner as required under section 9206 for a health care provider who is administering an immunizing agent to a child.

(4) The department, in consultation with the board, shall promulgate rules to implement this section. The rules must require the training program required under this section to include a course on the administration of vaccines that is provided by an entity accredited by the Accreditation Council for Pharmacy Education.

(5) This section does not prohibit a pharmacist from ordering or administering an immunizing agent pursuant to federal law or an emergency order.

(6) As used in this section:

(a) "Immunizing agent" means that term as defined in section 9201.

(b) "Michigan care improvement registry" means the Michigan care improvement registry established under section 9207.

(c) "Qualified immunizing agent" means an immunizing agent that meets all of the following requirements:

(i) Is a vaccine that is recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(ii) Is a vaccine that is approved or authorized for use by the Food and Drug Administration or has been authorized for emergency use by the Food and Drug Administration.

History: Add. 2023, Act 97, Imd. Eff. July 19, 2023

Popular Name: Act 368

333.17724a Ordering and administration of qualified laboratory tests by pharmacist; requirements and duties; promulgation of rules; exceptions; "qualified laboratory test" defined.

Sec. 17724a.

(1) Subject to this section, a pharmacist may order a qualified laboratory test for and administer the qualified laboratory test to an individual if the qualified laboratory test meets all of the following requirements:

(a) The qualified laboratory test is classified as waived by the Food and Drug Administration.

(b) The qualified laboratory test requires only the use of a specimen collected by a nasal or throat swab or a finger prick.

(c) The qualified laboratory test is used to detect or screen for any of the following:

(i) COVID-19.

(ii) Influenza.

(iii) A respiratory infection.

(2) Before ordering or administering a qualified laboratory test under this section, a pharmacist shall successfully complete the training program approved under subsection (5).

(3) A pharmacist who orders a qualified laboratory test for or administers a qualified laboratory test to an individual under this section shall advise the individual of the test result and refer the individual to a physician, or another health professional, designated by the individual.

(4) A pharmacist who orders a qualified laboratory test for and administers that qualified laboratory test to an individual under this section for purposes of detecting or screening for COVID-19 or influenza may, without a prescription, dispense a drug to the individual if all of the following are met:

(a) The pharmacist determines that the drug is needed to treat the individual for COVID-19 or influenza based on the individual's test result.

(b) The drug is an antiviral drug and is available at the pharmacy.

(c) The drug is provided pursuant to protocols established by the Centers for Disease Control and Prevention or public health guidelines established by the department of health and human services.

(d) The pharmacist complies with subsection (3) and any other requirement established by rule under this section.

(5) The department, in consultation with the board, shall promulgate rules to implement this section. The rules must require the training program required under this section to require a pharmacist to demonstrate sufficient knowledge of how to administer and interpret each laboratory test that the pharmacist may order or administer under this section and to demonstrate sufficient knowledge of each illness, condition, or disease described in subsection (1) for which the pharmacist provides treatment based on the results of a qualified laboratory test.

(6) This section does not prohibit a pharmacist from doing any of the following:

(a) Ordering or administering a laboratory test as a delegated act of a physician or another health professional under section 16215.

(b) Ordering or administering a laboratory test pursuant to federal law or an emergency order.

(c) Dispensing a drug to a patient without a prescription pursuant to federal law or an emergency order.

(7) As used in this section, "qualified laboratory test" means a laboratory test meeting the requirements described in subsection (1).

History: Add. 2023, Act 97, Imd. Eff. July 19, 2023
Popular Name: Act 368

333.17726 Certificate of licensure; issuance.

Sec. 17726.

The department shall issue a certificate of licensure to an applicant who is granted a license under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2020, Act 4, Eff. Apr. 26, 2020
Popular Name: Act 368

333.17731 Renewal of pharmacist or pharmacy technician license; continuing education; rules.

Sec. 17731.

(1) Notwithstanding the requirements of part 161, the board may require either of the following:

(a) That a licensee seeking renewal of a pharmacist's license furnish the department with satisfactory evidence that during the 2 years immediately preceding application for renewal, he or she attended continuing education courses or programs, approved by the board, totaling not less than 30 hours or satisfactorily completed a proficiency examination according to rules promulgated by the department in consultation with the board.

(b) That a licensee seeking renewal of a pharmacy technician's license furnish the department with satisfactory evidence that during the 2 years immediately preceding application for renewal, he or she has attended at least 20 hours of continuing education courses or programs, approved by the board, or satisfactorily completed a proficiency examination according to rules promulgated by the department in consultation with the board.

(2) The department in consultation with the board shall promulgate rules requiring each applicant for license renewal to complete as part of the continuing education or proficiency examination requirement of subsection (1) an appropriate number of hours or courses in pain and symptom management.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986 ;-- Am. 1994, Act 234, Imd. Eff. June 30, 1994 ;-- Am. 2014, Act 285, Eff. Dec. 22, 2014
Popular Name: Act 368
Admin Rule: R 338.3041 et seq. of the Michigan Administrative Code.

333.17733 Relicensure of pharmacist; requirements.

Sec. 17733.

A pharmacist who has not actively engaged in the practice of pharmacy for more than 3 consecutive years may be granted relicensure upon application and completion of a program of practical pharmacy experience of at least 200 hours, as determined by the board.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1981, Act 215, Imd. Eff. Jan. 5, 1982 ;-- Am. 1988, Act 462, Eff. Sept. 1, 1989
Popular Name: Act 368

333.17737 Rules establishing standards for internship program; limited license required.

Sec. 17737.

(1) The board shall promulgate rules to establish standards for an internship program and participation therein by interns and preceptors.

(2) An individual shall not engage in an internship program which includes the practice of pharmacy without a limited license under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17739 Pharmacy technician; functions; licensure.

Sec. 17739.

(1) An individual who performs any of the following functions is considered to be serving as a pharmacy technician and, except as otherwise provided in this part, is required to be licensed under this part as a pharmacy technician:

(a) Assisting in the dispensing process.

(b) Handling transfer of prescriptions, except controlled substances prescriptions.

(c) Compounding drugs.

(d) Preparing or mixing intravenous drugs for injection into a human patient.

(e) Contacting prescribers concerning prescription drug order clarification, which does not include drug regimen review or clinical or therapeutic interpretation.

(f) Receiving verbal orders for prescription drugs, except orders for controlled substances.

(g) Subject to section 16215, performing any other functions authorized under rules promulgated by the department in consultation with the board.

(2) A pharmacy or dispensing prescriber that utilizes the services of a pharmacy technician shall ensure that all of the following requirements, as applicable, are met:

(a) The pharmacy technician is licensed or otherwise authorized to serve as a pharmacy technician under this part.

(b) The pharmacy technician only performs the activities or functions that he or she is licensed or otherwise authorized to perform under this part or rules promulgated under this part.

(c) Except for a remote pharmacy or as otherwise provided by rule promulgated by the department in consultation with the board, the pharmacy technician only performs the activities or functions described in subdivision (b) under the supervision and personal charge of the pharmacist or dispensing prescriber.

History: Add. 2014, Act 285, Eff. Dec. 22, 2014 ;-- Am. 2020, Act 4, Eff. Apr. 26, 2020
Popular Name: Act 368

333.17739a Pharmacy technician; licensure; requirements; exemption from certain requirements.

Sec. 17739a.

(1) Subject to subsection (2), the department may license an individual who meets all of the following requirements as a pharmacy technician under this part:

(a) Submits a completed application to the department on a form prescribed by the department.

(b) Except as otherwise provided in subsection (4), graduated from an accredited high school or comparable school or educational institution or passed the general educational development test or other graduate equivalency examination.

(c) Satisfies the requirements of section 16174.

(d) Except as otherwise provided in subsection (4), passes and submits proof to the department of passage of any of the following:

(i) The certified pharmacy technician examination given by the Pharmacy Technician Certification Board.

(ii) The certified pharmacy technician examination given by the National Healthcareer Association.

(iii) Any other nationally recognized and administered certification examination approved by the board.

(iv) An employer-based training program examination that is approved by the board and covers job descriptions, pharmacy security, commonly used medical abbreviations, routes of administration, product selection, final check by pharmacists, guidelines for the use of pharmacy technicians, pharmacy terminology, basic drug information, basic calculations, quality control procedures, state and federal laws and regulations regarding pharmacy technician duties, pharmacist duties, pharmacy intern duties, prescription or drug order processing procedures, drug record-keeping requirements, patient confidentiality, and pharmacy security and drug storage.

(2) An individual who is not a pharmacist, pharmacist intern, or pharmacy technician shall not perform any of the functions described in section 17739(1) for a pharmacy.

(3) A pharmacist shall not allow any individual employed or otherwise under the personal charge of the pharmacist to violate subsection (2). A person that owns, manages, operates, or conducts a pharmacy shall not allow any individual employed or otherwise under the control of that person to violate subsection (2).

(4) An individual who meets any of the following is not required to meet the requirements of subsection (1)(b) and (d) to be eligible for a license under subsection (1):

(a) As provided in section 16171(a), is a student in a pharmacy technician program approved by the board.

(b) Is applying for a temporary license under section 17739b.

(c) Is applying for a limited license under section 17739c.

History: Add. 2014, Act 285, Eff. Dec. 22, 2014 ;-- Am. 2015, Act 133, Imd. Eff. Sept. 30, 2015
Popular Name: Act 368

333.17739b Pharmacy technician; temporary license.

Sec. 17739b.

(1) Subject to section 17739a(4), the department may issue a temporary license as a pharmacy technician to an individual who is preparing for the examination under section 17739a(1)(d). Notwithstanding section 16181, the term of a temporary license issued under this section expires 1 year after the date the temporary license is issued.

(2) An individual requesting a temporary license under this section shall submit a completed application, on a form prescribed by the department, to the department and pay the applicable fee under section 16333.

(3) An individual who holds a temporary license as a pharmacy technician issued under subsection (1) is subject to all of the requirements of this part, and rules promulgated by the department in consultation with the board, applicable to pharmacy technicians except the examination requirement under section 17739a(1)(d).

History: Add. 2014, Act 285, Eff. Dec. 22, 2014 ;-- Am. 2015, Act 133, Imd. Eff. Sept. 30, 2015
Popular Name: Act 368

333.17739c Pharmacy technician; limited license.

Sec. 17739c.

(1) In addition to the requirement of section 16182 and subject to section 17739a(4), the department may issue a limited license as a pharmacy technician to an individual if all of the following are met:

(a) The individual was employed as a pharmacy technician by a pharmacy on December 22, 2014 and has been continuously employed by that pharmacy since that date.

(b) The individual submits a completed application to the department on a form prescribed by the department and meets the requirements of section 16174.

(c) The individual provides documentation of satisfactory employment as a pharmacy technician for a minimum of 1,000 hours during the 2-year period immediately preceding the date of his or her application under subdivision (b).

(d) The applicable fee under section 16333 is paid.

(2) Except as otherwise provided in subsection (5), an individual who holds a limited license under this section may only act as a pharmacy technician for the pharmacy described in subsection (1)(a) and only until 1 of the following occurs:

(a) He or she is no longer employed by that pharmacy to perform those functions.

(b) He or she performs any of those functions for another pharmacy.

(3) The term of a limited pharmacy technician license issued by the department under this section is the same as a pharmacy technician license issued by the department under section 17739a.

(4) An individual who holds a limited pharmacy technician license issued under this section is subject to all of the requirements of this part, and the rules promulgated by the department in consultation with the board, except the examination requirement under section 17739a(1)(d).

(5) An individual who is employed as a pharmacy technician by an employer that operates multiple licensed pharmacy locations may work as a limited license pharmacy technician at any of the employer's licensed pharmacy

locations in this state.

History: Add. 2014, Act 285, Eff. Dec. 22, 2014 ;-- Am. 2015, Act 133, Imd. Eff. Sept. 30, 2015
Popular Name: Act 368

333.17741 Pharmacy license required; personal charge of pharmacy by pharmacist; responsibility for compliance with laws; control and personal charge of pharmacy services; remote pharmacy exception; effect of violation on pharmacy license.

Sec. 17741.

(1) A pharmacy must not be operated unless licensed under this part.

(2) Except for a remote pharmacy, a pharmacy open for business must be under the personal charge of a pharmacist. A pharmacist shall not simultaneously have personal charge of more than 1 pharmacy.

(3) The person to whom a pharmacy license is issued and the pharmacists on duty are responsible for compliance with federal and state laws regulating the distribution of drugs and the practice of pharmacy. Except for a remote pharmacy, pharmacy services must be conducted under the control and personal charge of a pharmacist.

(4) A sanction for a violation of this part only affects the pharmacy license of the place of business where the violation occurred.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2020, Act 4, Eff. Apr. 26, 2020
Popular Name: Act 368

333.17742 Disclosure; "applicant" defined.

Sec. 17742.

(1) The board may require an applicant or the holder of a pharmacy, manufacturer's, wholesale distributor's, or wholesale distributor-broker's license to fully disclose the identity of each partner, stockholder, officer, or member of the board of directors of the pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker, as applicable.

(2) As used in this section and sections 17742a, 17748, 17748a, 17748e, and 17768, "applicant" means a person applying for a pharmacy, manufacturer's, wholesale distributor's, or wholesale distributor-broker's license under this article. Applicant includes only 1 or more of the following:

(a) An individual, if the person applying is an individual.

(b) All partners, including limited partners, if the person applying is a partnership.

(c) All stockholders, officers, and members of the board of directors, if the person applying is a privately held corporation.

History: Add. 1987, Act 250, Imd. Eff. Dec. 28, 1987 ;-- Am. 2014, Act 280, Eff. Sept. 30, 2014 ;-- Am. 2020, Act 4, Eff. Apr. 26, 2020 ;-- Am. 2020, Act 142, Imd. Eff. July 14, 2020
Popular Name: Act 368

333.17742a Remote pharmacy; operation; licensure requirements; location waiver; exception.

Sec. 17742a.

(1) A parent pharmacy shall not operate a remote pharmacy in this state unless the parent pharmacy and the remote pharmacy are each located in this state and licensed as a pharmacy under this part.

(2) The department shall grant a pharmacy license to an applicant seeking to operate a remote pharmacy if the applicant meets all of the following:

(a) Submits a completed application and pays the applicable fee under section 16333.

(b) Demonstrates to the satisfaction of the department that the parent pharmacy and the proposed remote pharmacy share common ownership.

(c) Subject to subsection (3), demonstrates to the satisfaction of the department that, at the time of the application, the location of the proposed remote pharmacy is not within 10 miles of another pharmacy. This subdivision does not apply if the remote pharmacy is located at a hospital or mental health facility.

(d) Meets any other requirement for licensure as a pharmacy as established by the department, in consultation with the board, by rule.

(3) An applicant seeking a pharmacy license under subsection (2) may apply to the board for a waiver of the mileage requirement described in subsection (2)(c). The board shall only grant a request for a waiver if the applicant demonstrates to the satisfaction of the board that the location of the proposed remote pharmacy is in an area where there is limited access to pharmacy services and that there are compelling circumstances that justify waiving the requirement.

(4) If a pharmacy license is granted to a pharmacy that is located within 10 miles of a remote pharmacy after the remote pharmacy's license is granted or renewed, the remote pharmacy may continue to operate.

History: Add. 2020, Act 4, Eff. Apr. 26, 2020
Popular Name: Act 368

333.17742b Staffing of remote pharmacy; requirements; written policy and procedure manual; public notice display; operation requirements and limitations; "qualified pharmacy technician" defined.

Sec. 17742b.

(1) If a remote pharmacy open for business is not under the personal charge of a pharmacist, the pharmacist in charge of the parent pharmacy shall ensure that the remote pharmacy is staffed by a qualified pharmacy technician who, while assisting in the dispensing process, is overseen through the use of a surveillance system and a telepharmacy system by a pharmacist who meets the requirements described in subsection (2).

(2) Subject to subsection (10), a pharmacist who is located at a parent pharmacy may only oversee the activities at a remote pharmacy if the pharmacist has access to all relevant patient information that is maintained by the parent pharmacy and he or she is employed by or under contract with the parent pharmacy or a pharmacy that has contracted with the parent pharmacy.

(3) For purposes of this code, a prescription dispensed under this section, including a prescription for a controlled substance, is considered dispensed at the remote pharmacy by the pharmacist described in subsection (2).

(4) The pharmacist in charge of the parent pharmacy shall establish and maintain a written policy and procedure manual that must be made available to the department for inspection upon request and that contains each of the following, subject to this section:

(a) A description of how the remote pharmacy will comply with federal and state laws, rules, and regulations.

(b) The procedure by which a pharmacist described in subsection (2) oversees a qualified pharmacy technician at the remote pharmacy who is assisting in the dispensing process and the procedure by which the pharmacist provides counseling to patients at the remote pharmacy.

(c) The procedure for reviewing each of the following:

(i) Subject to section 7321, prescription drug inventory at the remote pharmacy.

(ii) Prescriptions or equivalent records approved by the board that are on file at the remote pharmacy.

(d) The policy and procedure for providing adequate security to protect the confidentiality and integrity of a patient's protected health information.

(e) The procedure for recovering from an event that interrupts or prevents a pharmacist described in subsection (2) from overseeing the operations of the remote pharmacy through the surveillance system or telepharmacy system. The procedure must require that the remote pharmacy be closed to the public during a time period in which any component of the surveillance system or telepharmacy system is malfunctioning, unless a pharmacist is present at the remote pharmacy during that time period.

(f) The procedure for ensuring that a pharmacist described in subsection (2) complies with the electronic system for monitoring schedule 2, 3, 4, and 5 controlled substances established under section 7333a before a controlled substance is dispensed under this section.

(g) The specific acts, tasks, and functions that a qualified pharmacy technician may perform at the remote pharmacy. However, a qualified pharmacy technician shall not do any of the following at the remote pharmacy:

(i) Provide consultation regarding a prescription or regarding medical information contained in a patient medication record or patient chart.

(ii) Perform compounding of sterile or nonsterile drugs, except for the reconstitution of prepackaged prescription drugs.

(h) A requirement that a pharmacist described in subsection (2) complete a monthly, in-person inspection of the remote pharmacy that includes, at a minimum, conducting inventory reconciliation for controlled substances and reviewing any video recording from the surveillance system that the pharmacist considers necessary.

(i) A policy that requires the pharmacist described in subsection (2) to retain audio and video recordings from the surveillance system for at least 45 calendar days.

(5) The pharmacist in charge of the parent pharmacy shall display at the remote pharmacy in a conspicuous location, visible to the public, a notice that provides all of the following information:

(a) That the pharmacy services are being provided at a remote pharmacy.

(b) That if patient counseling is provided, it may be provided by a pharmacist using audio and video communication.

(c) The address of the parent pharmacy.

(6) A pharmacist described in subsection (2) shall review a prescription as required by state and federal law, rules, and regulations before the drug or device that is the subject of the prescription is dispensed under this section. The pharmacist shall ensure that the pharmacist's and the qualified pharmacy technician's initials or other means of identifying the pharmacist and the qualified pharmacy technician involved in the dispensing process are recorded on the prescription and that the specific acts, tasks, or functions performed by the pharmacist or qualified pharmacy technician during the dispensing process are recorded in the pharmacy management system. When submitting a claim or otherwise seeking reimbursement for a public or private third party payer for a drug or device that is dispensed under this section, the pharmacist shall identify the remote pharmacy as the pharmacy from which the drug or device was dispensed.

(7) If a remote pharmacy open for business is not under the personal charge of a pharmacist, any patient counseling that is required by rule must be provided before the drug or device is dispensed at the remote pharmacy and must be provided by a pharmacist described in subsection (2) through the telepharmacy system in a manner that complies with the health insurance portability and accountability act of 1996, Public Law 101-191, or regulations promulgated under that act, 45 CFR parts 160 and 164.

(8) If a pharmacist described in subsection (2) is not present at the parent pharmacy, the remote pharmacy must be closed for business unless a pharmacist is present at the remote pharmacy.

(9) A remote pharmacy shall not dispense more than an average of 150 prescriptions per day during a 90-day period.

(10) A pharmacist described in subsection (2) shall not simultaneously oversee the activities of 3 or more remote pharmacies.

(11) As used in this section, "qualified pharmacy technician" means a pharmacy technician who meets all of the following requirements:

(a) He or she holds a pharmacy technician license other than a temporary license under section 17739b or limited license under section 17739c.

(b) He or she has accumulated at least 1,000 hours of experience working in a pharmacy after he or she was granted a temporary pharmacy technician license under section 17739b, a limited pharmacy technician license under section 17739c, or a pharmacy technician license under section 17739a.

(c) He or she holds a national certification as a pharmacy technician from an organization approved by the board.

History: Add. 2020, Act 4, Eff. Apr. 26, 2020
Popular Name: Act 368

333.17743 Pharmacy license; contents; duration.

Sec. 17743.

(1) A pharmacy license shall contain the name of the licensee, the address of the place of practice, a description of the pharmacy and the premises thereof, and other information the board requires.

(2) A pharmacy license is valid for 2 years, commencing on the date of issue and terminating on the date prescribed for pharmacists in section 16194.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17744 Designation of agent by prescriber; issuance of prescription; limitation; transmission of prescription to pharmacy.

Sec. 17744.

(1) A prescriber may designate an agent to act on behalf of or at the discretion of that prescriber. A designation of an agent by a prescriber under this section is not required to be in writing to be a valid designation. If a designation of an agent by a prescriber under this section is contained in a written document, the prescriber or the agent may transmit that document to a pharmacy that will dispense a prescription issued by that prescriber.

(2) Except as otherwise provided in this part, only a prescriber who is acting within the scope of the prescriber's practice may issue a prescription. An agent may prepare and transmit a prescription that has been signed by the prescriber, including a signature that meets the requirements of section 17754 or 17754a. The prescriber issuing a prescription and the pharmacist issuing a prescription in accordance with this part or dispensing a drug or device under a prescription is responsible for all of the requirements of state and federal law, rules, and regulations regarding the issuance of prescriptions and dispensing of drugs or devices under prescriptions.

(3) A prescriber or the prescriber's agent may transmit to a pharmacy a prescription that is contained within a patient's chart in a health facility or agency licensed under article 17 or other medical institution. A prescription that is contained within a patient's chart in a health facility or agency licensed under article 17 or other medical institution and that is created in an electronic format may contain more than 6 prescriptions and may contain prescriptions for schedule 3 to 5 controlled substances and noncontrolled substances on the same form.

History: Add. 2012, Act 209, Imd. Eff. June 27, 2012 ;-- Am. 2020, Act 136, Imd. Eff. July 8, 2020 ;-- Am. 2024, Act 242, Eff. Apr. 2, 2025
Popular Name: Act 368

333.17744a Auto-injectable epinephrine; prescribing or issuing to authorizing entity.

Sec. 17744a.

(1) Notwithstanding any provision of this act to the contrary, a prescriber may issue a prescription for and a dispensing prescriber or pharmacist may dispense auto-injectable epinephrine to an authorized entity. When issuing a prescription for or dispensing auto-injectable epinephrine to an authorized entity as authorized under this section, the prescriber, dispensing prescriber, or pharmacist, as appropriate, shall insert the name of the authorized entity as the name of the patient.

(2) A school employee who is a licensed registered professional nurse or who is trained in the administration of an epinephrine auto-injector under section 1179a of the revised school code, 1976 PA 451, MCL 380.1179a, may possess and administer an epinephrine auto-injector dispensed to a school board under this section.

(3) An authorized entity as defined in subsection (6)(b) may acquire and stock a supply of auto-injectable epinephrine under a prescription as authorized in this section. An authorized entity as defined in subsection (6)(b) that acquires and stocks a supply of auto-injectable epinephrine is subject to section 17744d.

(4) A law enforcement officer or firefighter of an authorized entity as defined in subsection (6)(c) may, subject to section 2 of the law enforcement and firefighter access to epinephrine act, possess and administer auto-injectable epinephrine dispensed to the entity under this section.

(5) A prescriber who issues a prescription for or a dispensing prescriber or pharmacist who dispenses auto-

injectable epinephrine to an authorized entity as authorized under this section is not liable in a civil action for a properly stored and dispensed epinephrine auto-injector that was a proximate cause of injury or death to an individual due to the administration of or failure to administer the epinephrine auto-injector.

(6) As used in this section, "authorized entity" means any of the following:

(a) A school board for the purpose of meeting the requirements of section 1179a of the revised school code, 1976 PA 451, MCL 380.1179a.

(b) A person or governmental entity that operates or conducts a business or activity at which allergens capable of causing anaphylaxis may be present, including, but not limited to, a recreation camp, youth sports league, amusement park, nonpublic school, religious institution, or sports arena.

(c) An eligible entity authorized to purchase, possess, and distribute auto-injectable epinephrine under the law enforcement and firefighter access to epinephrine act.

History: Add. 2013, Act 186, Eff. Mar. 14, 2014 ;-- Am. 2015, Act 221, Eff. Mar. 16, 2016 ;-- Am. 2020, Act 311, Imd. Eff. Dec. 29, 2020
Popular Name: Act 368

333.17744b Prescribing, possessing, or dispensing opioid antagonist; liability.

Sec. 17744b.

(1) Notwithstanding any provision of this act to the contrary, a prescriber may issue a prescription for and a dispensing prescriber or pharmacist may dispense an opioid antagonist to any of the following:

(a) An individual patient at risk of experiencing an opioid-related overdose.

(b) A family member, friend, or other individual in a position to assist an individual at risk of experiencing an opioid-related overdose.

(c) A person other than an individual that meets all of the following requirements:

(i) Acts at the direction of the prescriber or dispensing prescriber.

(ii) Upon receipt of an opioid antagonist, stores the opioid antagonist in compliance with this part.

(iii) Dispenses or administers an opioid antagonist under a valid prescription issued to an individual or a patient.

(iv) Performs the requirements under this subsection without charge or compensation.

(d) An agency authorized to purchase or otherwise obtain, possess, and distribute an opioid antagonist under the administration of opioid antagonists act, 2019 PA 39, MCL 15.671 to 15.677.

(2) When issuing a prescription for or dispensing an opioid antagonist as authorized under this section to an agency described in subsection (1)(d) or a person other than a patient, the prescriber, dispensing prescriber, or pharmacist, as appropriate, shall insert the name of the agency or the person as the name of the patient.

(3) Notwithstanding any provision of this act to the contrary, a person that is acting in good faith and with reasonable care may possess and dispense an opioid antagonist.

(4) Notwithstanding any provision of this act to the contrary, an agency described in subsection (1)(d) or an employee or agent of an agency described in subsection (1)(d) may, subject to the administration of opioid antagonists act, 2019 PA 39, MCL 15.671 to 15.677, possess, administer, and distribute an opioid antagonist dispensed to the agency under this section.

(5) A prescriber who issues a prescription for or a dispensing prescriber or pharmacist who dispenses an opioid antagonist as authorized under this section is not liable in a civil action for a properly stored and dispensed opioid antagonist that was a proximate cause of injury or death to an individual due to the administration of or failure to administer the opioid antagonist.

History: Add. 2014, Act 311, Imd. Eff. Oct. 14, 2014 ;-- Am. 2016, Act 384, Eff. Mar. 29, 2017 ;-- Am. 2019, Act 36, Eff. Sept. 24, 2019 ;-- Am. 2024, Act 232, Eff. Apr. 2, 2025
Popular Name: Act 368

333.17744c Person administering opioid antagonist under certain conditions; immunity from criminal

prosecution or sanction.

Sec. 17744c.

A person that administers an opioid antagonist to an individual who he or she believes is suffering an opioid-related overdose and that acts in good faith and with reasonable care is immune from criminal prosecution or sanction under any professional licensing act for that act.

History: Add. 2014, Act 313, Imd. Eff. Oct. 14, 2014
Popular Name: Act 368

333.17744d Auto-injectable epinephrine; storage, maintenance, general oversight, and use by designated employee or agent; training program; certificate; liability; report; administration by person other than employee, agent, or individual described in subsection (2); "authorized health care provider" defined.

Sec. 17744d.

(1) This section only applies to an authorized entity as defined in section 17744a(6)(b) that acquires and stocks a supply of auto-injectable epinephrine as authorized in section 17744a. An authorized entity shall store auto-injectable epinephrine in a location readily accessible in an emergency and in accordance with the auto-injectable epinephrine's instructions for use and any additional requirements that are established by the department. An authorized entity shall designate an employee or agent who has completed the training required under this section to be responsible for the storage, maintenance, and general oversight of the auto-injectable epinephrine acquired by the authorized entity.

(2) An employee or agent of an authorized entity or other individual, which employee, agent, or individual has completed the training required under this section, may, on the premises of or in connection with the conduct of the business or activity of the authorized entity, use auto-injectable epinephrine prescribed under section 17744a to do any of the following:

(a) Provide auto-injectable epinephrine to an individual who the employee, agent, or other individual believes in good faith is experiencing anaphylaxis for immediate self-administration, regardless of whether the individual has a prescription for auto-injectable epinephrine or has previously been diagnosed with an allergy.

(b) Administer auto-injectable epinephrine to an individual who the employee, agent, or other individual believes in good faith is experiencing anaphylaxis, regardless of whether the individual has a prescription for auto-injectable epinephrine or has previously been diagnosed with an allergy.

(3) Before providing or administering auto-injectable epinephrine made available by an authorized entity, an employee, agent, or other individual described in subsection (2) must complete an initial anaphylaxis training program and a subsequent anaphylaxis training program at least every 2 years following completion of the most recently completed anaphylaxis training program that meets all of the following requirements:

(a) Is conducted by a nationally recognized organization experienced in training laypersons in emergency health treatment or by a person, entity, or class of individuals approved by the department.

(b) Is conducted online or in person.

(c) At a minimum, covers all of the following:

(i) Techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis.

(ii) Standards and procedures for the storage and administration of auto-injectable epinephrine.

(iii) Emergency follow-up procedures.

(4) An organization, person, entity, or class of individuals that conducts an anaphylaxis training program described in subsection (3) shall issue a certificate, on a form developed or approved by the department, to each individual who successfully completes the anaphylaxis training program.

(5) Except as otherwise provided in this section, an authorized entity and its employees, agents, and other trained individuals that have acted in accordance with the requirements of subsections (1) to (4); an individual who uses auto-injectable epinephrine obtained in accordance with the requirements of subsections (1) to (4) and made available under subsection (10); or an organization, person, entity, or class of individuals that conducts an anaphylaxis training program described in and conducted in accordance with subsection (3), is not subject to any of the following:

(a) For an authorized entity or person other than an individual described in this subsection, civil liability for injury, death, or damages that result from the administration or self-administration of auto-injectable epinephrine, the failure to administer auto-injectable epinephrine, or any other act or omission taken pursuant to this section, if the conduct does not constitute gross negligence as that term is defined in section 7 of 1964 PA 170, MCL

691.1407, that is the proximate cause of the injury, death, or damages.

(b) For an individual described in this subsection, civil liability for injury, death, or damages that result from the administration or self-administration of auto-injectable epinephrine, the failure to administer auto-injectable epinephrine, or any other act or omission taken pursuant to this section, if the conduct does not constitute willful or wanton misconduct that is the proximate cause of the injury, death, or damages.

(c) For an authorized entity or person including an individual described in this subsection, criminal prosecution for purchasing, possessing, or distributing auto-injectable epinephrine, the administration or self-administration of auto-injectable epinephrine, the failure to administer auto-injectable epinephrine, or any other act or omission taken pursuant to this section.

(6) The administration of auto-injectable epinephrine as authorized in this section is not the practice of medicine.

(7) This section does not eliminate, limit, or reduce any other immunity or defense that may be available under the laws of this state.

(8) An authorized entity located in this state is not civilly liable for any injuries or related damages that result from providing or administering auto-injectable epinephrine by its employees or agents outside of this state if either of the following requirements is met:

(a) The authorized entity or its employee or agent would not have been civilly liable for the injuries or related damages had the provision or administration occurred in this state.

(b) The authorized entity or its employee or agent is not civilly liable for the injuries or related damages under the law of the state in which the provision or administration occurred.

(9) An authorized entity shall submit to the department, on a form prescribed by the department, a report of each incident on the premises of or in connection with the conduct of the business or activity of the authorized entity that involves the administration of auto-injectable epinephrine. The department shall annually publish a report that summarizes and analyzes all reports submitted to it under this subsection.

(10) An authorized entity may make auto-injectable epinephrine available to an individual other than an employee, agent, or individual described in subsection (2), and the other individual may administer auto-injectable epinephrine to any individual he or she believes in good faith to be experiencing anaphylaxis, if the auto-injectable epinephrine is stored in a locked, secure container and is made available only upon remote authorization by an authorized health care provider after consultation with the authorized health care provider by audio, televideo, or other similar means of electronic communication. Consultation with an authorized health care provider for the purpose of this subsection is not the practice of telemedicine and does not violate any law or rule regulating the authorized health care provider's scope of practice. As used in this subsection, "authorized health care provider" means a prescriber as that term is defined in section 17708 other than a licensed dentist, licensed optometrist, or licensed veterinarian.

History: Add. 2015, Act 221, Eff. Mar. 16, 2016 ;-- Am. 2020, Act 311, Imd. Eff. Dec. 29, 2020
Popular Name: Act 368

333.17744e Dispensing opioid antagonist to individual pursuant to standing order issued by chief medical executive; "community-based organization" defined.

Sec. 17744e.

(1) Notwithstanding any provision of this act to the contrary, the chief medical executive in the office of chief medical executive created within the department of health and human services may issue a standing order that does not identify particular patients at the time it is issued for any of the following purposes:

(a) A pharmacist dispensing opioid antagonists to individuals under this section.

(b) A community-based organization or a staff member of the community-based organization distributing opioid antagonists to individuals under this section.

(2) Notwithstanding any provision of this act to the contrary, a pharmacist may dispense or a community-based organization or a staff member of the community-based organization may distribute an opioid antagonist to any individual pursuant to a standing order issued by the chief medical executive under subsection (1) and the rules promulgated under this section.

(3) The following are not liable in a civil action for damages resulting from the dispensing of an opioid antagonist or the administration of or failure to administer the opioid antagonist:

(a) The chief medical executive who issues a standing order for the opioid antagonist under this section.

(b) A pharmacist who dispenses the opioid antagonist as authorized under this section.

(c) A community-based organization that, or a staff member of the community-based organization who, distributes the opioid antagonist as authorized under this section.

(4) The department, in consultation with the department of health and human services and local health departments, may promulgate rules regarding dispensing, training, distribution, and referral to implement this section.

(5) As used in this section, "community-based organization" means a public or private organization that provides health or human services to meet the needs of a community, including, but not limited to, a nonprofit organization, a social service provider, or an organization providing substance use disorder prevention, treatment, recovery, or harm reduction services. A community-based organization does not include an agency as that term is defined in section 101 of the administration of opioid antagonists act, 2019 PA 39, MCL 15.671.

History: Add. 2016, Act 383, Eff. Mar. 28, 2017 ;-- Am. 2022, Act 176, Imd. Eff. July 21, 2022
Compiler's Notes: For transfer of powers and duties of chief medical executive to the new chief medical executive in the office of chief medical executive created within the department of health and human services, and abolishment of the position of chief medical executive, see E.R.O. No. 2016-4, compiled at MCL 333.26369.
Popular Name: Act 368

333.17744f Dispensing emergency supply of insulin; requirements; limitation; liability; rules; definitions.

Sec. 17744f.

(1) Subject to subsection (2), a pharmacist may dispense an emergency supply of insulin to an individual if the individual has a qualified prescription for insulin in the individual's name with no remaining authorized refills, the individual has previously had a prescription for insulin dispensed at the pharmacy, and, in the pharmacist's professional judgment, a failure to dispense the emergency supply of insulin might interrupt the individual's ongoing care and have a significant adverse effect on the individual's well-being. A pharmacist who dispenses an emergency supply of insulin under this section shall comply with all of the following:

(a) Before dispensing the emergency supply of insulin, make a reasonable effort to communicate with the prescriber who issued the qualified prescription for insulin regarding dispensing the emergency supply of insulin and document the efforts made.

(b) Document all of the following:

(i) The name of the individual receiving the emergency supply of insulin and the date of the dispensing.

(ii) The reason for dispensing the emergency supply of insulin.

(iii) Evidence of the individual's qualified prescription for insulin.

(iv) Information on the individual's diabetes management.

(v) Any other information required by the board by rule.

(c) Within 5 business days after dispensing the emergency supply of insulin, inform the prescriber who issued the qualified prescription for insulin, in writing, that an emergency supply of insulin was dispensed under this section.

(d) Inform the individual receiving the emergency supply of insulin that the insulin was dispensed under this section.

(2) An individual shall not receive more than 3 emergency supplies of insulin under this section in 1 calendar year. After an emergency supply of insulin is dispensed to an individual under this section, a pharmacist shall not dispense a subsequent emergency supply of insulin under this section within the same calendar year to that individual unless the individual has since obtained a new qualified prescription for insulin with no remaining authorized refills.

(3) A prescriber or pharmacist is not subject to criminal prosecution, civil liability, or administrative sanction as a result of the pharmacist dispensing an emergency supply of insulin under this section.

(4) The board shall promulgate rules to implement this section.

(5) As used in this section:

(a) "Emergency supply" means up to a 30-day supply.

(b) "Qualified prescription for insulin" means a prescription for insulin that was issued within the 12-month period immediately preceding the date the individual requests an emergency supply of insulin under this section.

History: Add. 2021, Act 36, Imd. Eff. July 1, 2021
Popular Name: Act 368

333.17744g Prescribing and dispensing certain hormonal contraceptives; promulgation of rules; self-screening risk assessment tool.

Sec. 17744g.

(1) Subject to the rules promulgated under this section, a pharmacist may issue a prescription for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive to an individual, regardless of the individual's age and regardless of whether the individual has evidence of a previous prescription from a prescriber for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive.

(2) By 18 months after the effective date of the amendatory act that added this section, the department, in consultation with the board, shall promulgate rules to implement this section. The rules must establish a standard procedure for issuing a prescription for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, and a vaginal ring hormonal contraceptive under this section. The rules must also prohibit a pharmacist from issuing a prescription for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive to an individual described in subsection (1) if the individual has not completed the self-screening risk assessment tool developed under subsection (3) and must require that a pharmacist comply with all of the following:

(a) Complete a training program that is approved by the board for issuing a prescription for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive.

(b) Provide the self-screening risk assessment tool that is developed under subsection (3) to an individual described in subsection (1) before issuing a prescription for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive to the individual.

(c) Upon issuing a prescription for the hormonal contraceptive patch, self-administered hormonal contraceptive, emergency contraceptive, or vaginal ring hormonal contraceptive to an individual described in subsection (1), refer the individual to the individual's primary care physician, or if the individual does not have a primary care physician, to another licensed health professional that the pharmacist considers appropriate.

(d) Provide an individual described in subsection (1) with a written record of the hormonal contraceptive patch, self-administered hormonal contraceptive, emergency contraceptive, or vaginal ring hormonal contraceptive for which the individual is issued the prescription and advise the individual to consult with a physician or other licensed health professional.

(e) If an individual described in subsection (1) has not had a physical examination in the previous 12 months, refer the individual to the individual's primary care provider for a physical examination after issuing a prescription for the hormonal contraceptive patch, self-administered hormonal contraceptive, emergency contraceptive, or vaginal ring hormonal contraceptive to the individual.

(f) Dispense the hormonal contraceptive patch, self-administered hormonal contraceptive, emergency contraceptive, or vaginal ring hormonal contraceptive to an individual described in subsection (1) as soon as practicable after issuing the prescription for the hormonal contraceptive patch, self-administered hormonal contraceptive, emergency contraceptive, or vaginal ring hormonal contraceptive to the individual, or transmit the prescription to another pharmacy of the individual's choice if authorized pursuant to rules promulgated by the department.

(3) The department, in consultation with the board, shall by rule develop a self-screening risk assessment tool to be used by an individual who is seeking a prescription for a hormonal contraceptive patch, a self-administered hormonal contraceptive, an emergency contraceptive, or a vaginal ring hormonal contraceptive under this section.

History: Add. 2024, Act 242, Eff. Apr. 2, 2025
Popular Name: Act 368

333.17745 Drug control license; patient's chart or clinical record to include record of drugs dispensed; delegating authority to dispense drugs; storage of drugs; container; label; complimentary starter dose drug; information; compliance with MCL 333.7303a; inspection of locations; limitation on delegation; receipt of complimentary starter dose drugs by pharmacist; "complimentary starter dose" defined.

Sec. 17745.

(1) Except as otherwise provided in this subsection, a prescriber who wishes to dispense prescription drugs shall obtain from the board a drug control license for each location in which the storage and dispensing of prescription drugs occur. A drug control license is not necessary if the dispensing occurs in the emergency department, emergency room, or trauma center of a hospital licensed under article 17 or if the dispensing involves only the issuance of complimentary starter dose drugs.

(2) Except as otherwise authorized for expedited partner therapy in section 5110 or as provided in section 17744a or 17744b, a dispensing prescriber shall dispense prescription drugs only to his or her own patients.

(3) A dispensing prescriber shall include in a patient's chart or clinical record a complete record, including prescription drug names, dosages, and quantities, of all prescription drugs dispensed directly by the dispensing prescriber or indirectly under his or her delegatory authority. If prescription drugs are dispensed under the prescriber's delegatory authority, the delegatee who dispenses the prescription drugs shall initial the patient's chart, clinical record, or log of prescription drugs dispensed. In a patient's chart or clinical record, a dispensing prescriber shall distinguish between prescription drugs dispensed to the patient, prescription drugs prescribed for the patient, prescription drugs dispensed or prescribed for expedited partner therapy as authorized in section 5110, and prescription drugs dispensed or prescribed as authorized under section 17744a or 17744b. A dispensing prescriber shall retain information required under this subsection for not less than 5 years after the information is entered in the patient's chart or clinical record.

(4) A dispensing prescriber shall store prescription drugs under conditions that will maintain their stability, integrity, and effectiveness and will ensure that the prescription drugs are free of contamination, deterioration, and adulteration.

(5) A dispensing prescriber shall store prescription drugs in a substantially constructed, securely lockable cabinet. Access to the cabinet must be limited to individuals authorized to dispense prescription drugs in compliance with this part and article 7.

(6) Unless otherwise requested by a patient, a dispensing prescriber shall dispense a prescription drug in a safety closure container that complies with the poison prevention packaging act of 1970, 15 USC 1471 to 1477.

(7) A dispensing prescriber shall dispense a drug in a container that bears a label containing all of the following information:

(a) The name and address of the location from which the prescription drug is dispensed.

(b) Except as otherwise authorized under section 5110, 17744a, or 17744b, the patient's name and record number.

(c) The date the prescription drug was dispensed.

(d) The prescriber's name or, if dispensed under the prescriber's delegatory authority, the name of the delegatee.

(e) The directions for use.

(f) The name and strength of the prescription drug.

(g) The quantity dispensed.

(h) The expiration date of the prescription drug or the statement required under section 17756.

(8) A dispensing prescriber who dispenses a complimentary starter dose drug to a patient, or an advanced practice registered nurse as that term is defined in section 17201 who dispenses a complimentary starter dose drug to a patient under section 17212, shall give the patient the information required in this subsection, by dispensing the complimentary starter dose drug to the patient in a container that bears a label containing the required information or by giving the patient a written document that may include, but is not limited to, a preprinted insert that comes with the complimentary starter dose drug and that contains the required information. The information required to be given to the patient under this subsection includes all of the following:

(a) The name and strength of the complimentary starter dose drug.

(b) Directions for the patient's use of the complimentary starter dose drug.

(c) The expiration date of the complimentary starter dose drug or the statement required under section 17756.

(9) The information required under subsection (8) is in addition to, and does not supersede or modify, other state or federal law regulating the labeling of prescription drugs.

(10) In addition to meeting the requirements of this part, a dispensing prescriber who dispenses controlled substances shall comply with section 7303a.

(11) The board may periodically inspect locations from which prescription drugs are dispensed.

(12) The act, task, or function of dispensing prescription drugs shall be delegated only as provided in this part and sections 16215, 17048, 17211a, 17212, and 17548.

(13) A supervising physician may delegate in writing to a pharmacist practicing in a hospital pharmacy within a

hospital licensed under article 17 the receipt of complimentary starter dose drugs other than controlled substances as defined in article 7 or federal law. When the delegated receipt of complimentary starter dose drugs occurs, both the pharmacist's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each receipt. A pharmacist described in this subsection may dispense a prescription for complimentary starter dose drugs written or transmitted by facsimile, electronic transmission, or other means of communication by a prescriber.

(14) As used in this section, "complimentary starter dose" means a prescription drug packaged, dispensed, and distributed in accordance with state and federal law that is provided to a dispensing prescriber free of charge by a manufacturer or distributor and dispensed free of charge by the dispensing prescriber to his or her patients.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1980, Act 431, Eff. Mar. 31, 1981 ;-- Am. 1986, Act 304, Eff. Mar. 31, 1987 ;-- Am. 1990, Act 333, Eff. Mar. 28, 1991 ;-- Am. 1992, Act 281, Imd. Eff. Dec. 18, 1992 ;-- Am. 1993, Act 305, Imd. Eff. Dec. 28, 1993 ;-- Am. 1996, Act 355, Imd. Eff. July 1, 1996 ;-- Am. 1997, Act 186, Eff. Mar. 31, 1998 ;-- Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007 ;-- Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011 ;-- Am. 2013, Act 186, Eff. Mar. 14, 2014 ;-- Am. 2014, Act 311, Imd. Eff. Oct. 14, 2014 ;-- Am. 2014, Act 525, Imd. Eff. Jan. 14, 2015 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017 ;-- Am. 2016, Act 499, Eff. Apr. 9, 2017
Popular Name: Act 368

333.17745a Definitions; public health program without on-site pharmacy; individuals delegated authority to dispense prescriptions; delegating delivery of certain oral contraceptives; circumstances; delegating delivery of methadone.

Sec. 17745a.

(1) As used in this section:

(a) "Medicaid" means the program of medical assistance established under title XIX of the social security act, 42 USC 1396 to 1396w-5.

(b) "Medicare" means the federal Medicare program established under title XVIII of the social security act, 42 USC 1395 to 1395lll.

(c) "Public health program" means 1 of the following:

(i) A local health department.

(ii) A migrant health center or a community health center as defined under 42 USC 254b and 254c.

(iii) A family planning program designated by the department of health and human services as a provider type 23 under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, and verified by the department of health and human services.

(iv) A methadone treatment program licensed under article 6.

(v) A rural health clinic.

(vi) A hospice rendering emergency care services in a patient's home as described in section 17746.

(d) "Rural health clinic" means a rural health clinic as defined in section 42 USC 1395x that is certified to participate in Medicaid and Medicare.

(2) Except as otherwise provided in subsections (3) and (4), in a public health program without an on-site pharmacy, a dispensing prescriber may delegate the dispensing of prescription drugs only to a registered professional nurse licensed under part 172.

(3) In a public health program without an on-site pharmacy, a dispensing prescriber may delegate the delivery of prescription drugs consisting only of prelabeled, prepackaged oral contraceptives under the following circumstances:

(a) The delivery is delegated to an appropriately trained individual.

(b) The delivery is performed pursuant to specific, written protocols.

(4) In a methadone treatment program licensed under article 6 without an on-site pharmacy, a dispensing prescriber may delegate the delivery of a prescription drug consisting only of 1 or more single doses of methadone, up to the maximum number of single doses allowed by law, to a registered client of the methadone treatment program, if all of the following requirements are met:

(a) The delivery is delegated to a registered professional nurse or a licensed practical nurse licensed under part 172.

(b) The delivery is performed pursuant to specific, written protocols.

(c) The prescription drug described in this subsection is labeled in accordance with section 17745.

History: Add. 1993, Act 305, Imd. Eff. Dec. 28, 1993 ;-- Am. 1999, Act 190, Imd. Eff. Nov. 24, 1999 ;-- Am. 2016, Act 379, Eff. Mar. 22,

2017
Popular Name: Act 368

333.17745b Industrial clinic or prescriber practice without on-site pharmacy; dispensing prescription drug.

Sec. 17745b.

(1) Subject to subsection (3), in an industrial clinic or other prescriber practice location without an on-site pharmacy, a dispensing prescriber may delegate the dispensing of prescription drugs only to a registered professional nurse licensed under part 172.

(2) In an industrial clinic or other prescriber practice location without an on-site pharmacy, if a dispensing prescriber does not delegate the dispensing of a prescription drug, the dispensing prescriber shall do both of the following:

(a) Be physically present at the time the prescription drug is dispensed.

(b) Immediately before the prescription drug is dispensed, perform a final inspection of the type of prescription drug, labeling, dosage, and amount of the prescription drug dispensed.

(3) A dispensing prescriber who delegates the dispensing of a prescription drug to a patient in an industrial clinic or other prescriber practice location without an on-site pharmacy shall not delegate the dispensing of more than a 72-hour supply of the prescription drug.

(4) Before dispensing a prescription drug to a patient in an industrial clinic or other prescriber practice location without an on-site pharmacy, a dispensing prescriber who intends to charge for dispensing the drug shall give a written prescription to the patient and shall instruct the patient that he or she may elect to have the prescription filled by the dispensing prescriber or the patient's pharmacy of choice.

(5) If a dispensing prescriber intends to charge for dispensing a prescription drug to a patient in an industrial clinic or other prescriber practice location without an on-site pharmacy, the dispensing prescriber shall inform the patient of that fact before dispensing the prescription drug to the patient. The dispensing prescriber also shall list the charge for dispensing the prescription drug as a separate item on the patient's bill.

(6) This section does not apply to public health programs as defined in section 17745a.

History: Add. 1993, Act 306, Imd. Eff. Dec. 28, 1993 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.17746 Hospice emergency care services in patients' homes; medication box exchange program.

Sec. 17746.

A pharmacy may establish a medication box exchange program for hospice emergency care services rendered in patients' homes, pursuant to this section and rules promulgated under this section. The pharmacist in charge of the pharmacy shall be responsible for developing, implementing, and coordinating the program in conjunction with the medical director of the hospice program. The pharmacist in charge of the pharmacy shall be responsible for obtaining prescriptions from the hospice medical director for the drugs dispensed from a medication box. The board may promulgate rules to implement this section.

History: Add. 1993, Act 305, Imd. Eff. Dec. 28, 1993
Popular Name: Act 368
Admin Rule: R 338.471 et seq. of the Michigan Administrative Code.

333.17747 Drug control license; contents; duration; renewal; conditions; license as automatically void.

Sec. 17747.

(1) A drug control license shall contain the name and address of the dispensing prescriber and each location in which the storage and dispensing of drugs occur and other information the board requires.

(2) A drug control license is valid until the date on which the dispensing prescriber's professional license must be renewed, at which time the drug control license shall be renewed. The drug control license shall be renewed automatically, if both of the following conditions are met:

(a) The dispensing prescriber indicates that he or she dispenses drugs and desires to continue to do so.

(b) The dispensing prescriber renews his or her professional license.

(3) A dispensing prescriber whose drug control license is renewed pursuant to subsection (2) is subject to section 16226 and the other requirements of this article and article 7.

(4) A drug control license is automatically void if a board suspends or revokes the licensee's health professional license.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1980, Act 431, Eff. Mar. 31, 1981 ;-- Am. 1990, Act 333, Eff. Mar. 28, 1991 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.17748 Pharmacy, manufacturer, wholesale distributor; or wholesale distributor-broker, license required; compounding services; renewal; designation of pharmacist in charge; joint responsibility; exemption; report of change in ownership, management, location, or PIC or facility manager; duties of pharmacist in charge; submission of fingerprints; criminal history check; exception; investigation or inspection of out-of-state applicant or compounding pharmacy; reimbursement for expenses.

Sec. 17748.

(1) Except for a qualified pharmacy as that term is defined in section 17748e, to do business in this state, a pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker, whether or not located in this state, must be licensed under this part. To do business in this state, a person that provides compounding services must be licensed as a pharmacy or manufacturer under this part and, if a pharmacy, authorized to provide compounding services under this section and sections 17748a and 17748b. To do business in this state, an outsourcing facility must be licensed as a pharmacy under this part. Licenses are renewable biennially.

(2) Except for a remote pharmacy, a pharmacy shall designate a pharmacist licensed in this state as the pharmacist in charge for the pharmacy. For a remote pharmacy, the pharmacist designated as the pharmacist in charge of the parent pharmacy shall also serve as the pharmacist in charge of the remote pharmacy. Except as otherwise provided in this subsection, a manufacturer shall designate a pharmacist licensed in or outside of this state as the pharmacist in charge for the manufacturer or, if the manufacturer does not hold a license as a pharmacy, shall designate an employee with the appropriate education or experience, or both, to assume responsibility for compliance with licensing requirements as facility manager for the manufacturer. Except as otherwise provided in this subsection, a wholesale distributor or wholesale distributor-broker shall designate a pharmacist licensed in or outside of this state as the pharmacist in charge for the wholesale distributor or wholesale distributor-broker or shall designate an employee with the appropriate education or experience, or both, to assume responsibility for compliance with licensing requirements as facility manager for the wholesale distributor or wholesale distributor-broker. The pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker and the individual designated as the PIC or facility manager under this subsection are jointly responsible for the pharmacy's, manufacturer's, wholesale distributor's, or wholesale distributor-broker's compliance with this part and rules promulgated under this part. A person that is a manufacturer, wholesale distributor, or wholesale distributor-broker with respect to a device salable on prescription only but not with respect to any drug salable on prescription only is exempt from this subsection.

(3) Subject to this subsection, a pharmacist may be designated as the PIC for not more than 3 pharmacies, including remote pharmacies. A PIC described in this subsection shall work an average of at least 8 hours per week at each pharmacy for which he or she is the PIC unless he or she is serving as the PIC of a remote pharmacy. The PIC of a remote pharmacy is not required to be physically present at the remote pharmacy to satisfy the hour requirement described in this subsection, but may satisfy the requirement through the use of a telepharmacy system. The pharmacy and the PIC shall maintain appropriate records and demonstrate compliance with this subsection on the request of the board or its designee.

(4) A pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker shall report to the department a change in ownership, management, location, or its PIC or facility manager designated under subsection (2) not later than 30 days after the change occurs.

(5) A pharmacist designated as the PIC for a pharmacy shall supervise the practice of pharmacy for the

pharmacy. The duties of the PIC include, but are not limited to, the following:

(a) Supervision of all activities of pharmacy employees as they relate to the practice of pharmacy including the purchasing, storage, compounding, repackaging, dispensing, and distribution of drugs and devices to ensure that those activities are performed in compliance with this part and the rules promulgated under this part.

(b) Enforcement and oversight of policies and procedures applicable to the employees of the pharmacy for the procurement, storage, compounding, and dispensing of drugs and the communication of information to the patient in relation to drug therapy.

(c) Establishment and supervision of the method and manner for storage and safekeeping of pharmaceuticals, including maintenance of security provisions to be used when the pharmacy is closed.

(d) Establishment and supervision of the record-keeping system for the purchase, sale, delivery, possession, storage, and safekeeping of drugs and devices.

(e) Establishment of policies and procedures for individuals who are delegated responsibilities for any of the tasks described in this subsection by the PIC.

(6) Except as otherwise provided in subsection (8), fingerprints for the following individuals must be submitted with an application for a new pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker license in the same manner as required in section 16174 for the purpose of a criminal history check:

(a) If the application is from an individual, who is not a health professional licensed or otherwise authorized to engage in a health profession under this article or who is a health professional but was licensed or otherwise authorized to engage in his or her health profession under this article before October 1, 2008, fingerprints for that individual.

(b) If the application is from a partnership, fingerprints for all partners and any individual who will manage the day-to-day operations of the new pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker.

(c) If the application is from a privately held corporation, fingerprints for any individual who will manage the day-to-day operations of the new pharmacy, manufacturer, or wholesale distributor. This subdivision only applies to a privately held corporation that in the aggregate owns fewer than 75 pharmacies, manufacturers, wholesale distributors, or wholesale distributor-brokers on the date the corporation submits its license application.

(7) The board, department, and department of state police shall conduct the criminal history check on the individuals described in subsection (6) in the same manner as described in section 16174.

(8) Subsection (6) does not apply if a criminal history check that meets the requirements of section 16174 has been obtained for the individuals described in subsection (6) within the 2 years preceding the date of the application for a new pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker license under this part. To qualify for the exception under this subsection, an applicant shall submit proof of the previous criminal history check for each individual described in subsection (6), as applicable, with the application for a new pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker license under this part. If the department or board determines that a criminal history check for an individual described in subsection (6) does not meet the requirements of section 16174 or was not obtained within the time period prescribed, fingerprints must be submitted for the individual as required under subsection (6).

(9) If, as authorized or required under this article, the department inspects or investigates an applicant for a new pharmacy license for a pharmacy that will provide compounding services or a compounding pharmacy, and the applicant or compounding pharmacy is located outside of this state, the applicant or compounding pharmacy shall reimburse the department for its expenses incurred in carrying out its authority or duty to inspect or investigate the applicant or licensee under this article.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979 ;-- Am. 1988, Act 462, Eff. Sept. 1, 1989 ;-- Am. 2014, Act 280, Eff. Sept. 30, 2014 ;-- Am. 2014, Act 413, Eff. Mar. 30, 2015 ;-- Am. 2015, Act 169, Eff. Dec. 3, 2015 ;-- Am. 2020, Act 4, Eff. Apr. 26, 2020 ;-- Am. 2020, Act 142, Imd. Eff. July 14, 2020
Popular Name: Act 368

333.17748a Compounding services for sterile pharmaceuticals; accreditation; notification of complaint; maintenance and retention of records; resale of excess compounded pharmaceuticals prohibited; distribution of samples or complimentary starter doses; advertisement or promotion of compounding services; compounding pharmaceutical that is unavailable in marketplace; compounding and manufacturing at same location; rules.

Sec. 17748a.

(1) Beginning September 30, 2014, an applicant for a new pharmacy license for a pharmacy that will provide compounding services for sterile pharmaceuticals shall submit verification of current accreditation through a national accrediting organization approved by the board or verify the pharmacy is in the accreditation process. The department shall not issue a license to a pharmacy described in this subsection that is not accredited unless the applicant demonstrates compliance with USP standards in a manner determined by the board.

(2) By September 30, 2016, a pharmacy that is licensed on September 30, 2014 and that provides compounding services for sterile pharmaceuticals must be accredited by a national accrediting organization approved by the board, be verified by the board as being in the accreditation process, or be in compliance with USP standards in a manner determined by the board.

(3) Notwithstanding any provision of part 161 to the contrary, a pharmacy that provides compounding services for sterile pharmaceuticals shall submit with a license renewal application verification of current accreditation or compliance with USP standards, as applicable.

(4) A person that provides services consistent with an outsourcing facility shall comply with requirements of the FDA applicable to compounding services for sterile pharmaceuticals.

(5) A pharmacy shall notify the department of a complaint filed by another state in which the pharmacy is licensed for violations of that state's pharmacy laws, an investigation by federal authorities regarding violations of federal law, or an investigation by any agency into violations of accreditation standards regarding compounding activities within 30 days of knowledge of the complaint or investigation.

(6) Except for distribution within a hospital or another health care entity under common control when regulated by federal law, a pharmacist shall maintain a record of a compounded sterile pharmaceutical in the same manner and for the same retention period as prescribed in rules for other prescription records. The pharmacist shall include, but is not limited to including, all of the following information in the record required under this subsection:

(a) The name, strength, quantity, and dosage form of the compounded pharmaceutical.

(b) The formula to compound that includes mixing instructions, all ingredients and their quantities, and any additional information needed to prepare the compounded pharmaceutical.

(c) The prescription number or assigned internal identification number.

(d) The date of preparation.

(e) The manufacturer and lot number of each ingredient.

(f) The expiration or beyond-use date.

(g) The name of the person who prepared the compounded pharmaceutical.

(h) The name of the pharmacist who approved the compounded pharmaceutical.

(7) A pharmacist shall not offer excess compounded pharmaceuticals to other pharmacies for resale. A compounding pharmacy shall not distribute samples or complimentary starter doses of a compounded pharmaceutical to a health professional.

(8) A compounding pharmacy may advertise or otherwise promote the fact that they provide compounding services.

(9) Based on the existence of a health professional/patient relationship and the presentation of a valid prescription, or in anticipation of the receipt of a prescription based on routine, regularly observed prescription patterns, a pharmacist may compound for a patient a nonsterile or sterile pharmaceutical that is not commercially available in the marketplace.

(10) Notwithstanding any provision of this act to the contrary, a person shall not compound and manufacture drug products or allow the compounding and manufacturing of drug products at the same location.

(11) The department, in consultation with the board, may promulgate rules regarding conditions and facilities for the compounding of nonsterile and sterile pharmaceuticals.

History: Add. 2014, Act 280, Eff. Sept. 30, 2014 ;-- Am. 2015, Act 133, Imd. Eff. Sept. 30, 2015
Popular Name: Act 368

333.17748b Compounding nonsterile or sterile pharmaceuticals for prescriber or health facility or agency to administer to patients without prescription; authorization; report of adverse event; list of authorized pharmacies and pharmacists; selling or redispensing to prescriber or health facility or agency.

Sec. 17748b.

(1) Except as otherwise provided in this subsection, a pharmacist or pharmacy shall not compound nonsterile or sterile pharmaceuticals for a prescriber or health facility or agency licensed under article 17 to administer to the prescriber's, facility's, or agency's patients without a prescription, unless the pharmaceutical compounded by the

pharmacist or pharmacy complies with the most recent guidance on pharmacy compounding of human drug products under 21 USC 353a. Upon application by a pharmacist or compounding pharmacy, the department may authorize the pharmacist or compounding pharmacy to compound nonsterile or sterile pharmaceuticals for a prescriber or health facility or agency licensed under article 17 to administer to the prescriber's, facility's, or agency's patients in limited quantities without a prescription. This subsection does not apply to the compounding of topical nonsterile pharmaceuticals. The department shall prescribe the form of the application for use under this subsection, which application must include at least all of the following information:

(a) The name and license number of the pharmacist or pharmacy requesting authorization to compound under this subsection.

(b) The name of the specific prescriber or health facility or agency that is requesting compounded pharmaceuticals and an affidavit from the prescriber or designated agent of the health facility or agency attesting to the need and that the compounded pharmaceuticals are only for patients located in this state or in states immediately adjacent to this state.

(c) The pharmaceuticals to be compounded and the reason for the need to compound the pharmaceuticals.

(d) The anticipated quantities of pharmaceuticals to be compounded each month and the frequency of the need to compound before receipt of a prescription or documentation supporting the anticipated quantities.

(e) The conditions of operation including practices consistent with USP standards and requirements for sterility testing.

(2) A pharmacist or compounding pharmacy that is authorized to compound nonsterile or sterile pharmaceuticals for a prescriber or health facility or agency under subsection (1) shall do all of the following:

(a) Maintain complete and accurate records on a monthly basis of requests from and pharmaceuticals compounded for each prescriber or health facility or agency.

(b) Provide the information described in subdivision (a) to the department as specified in rules or upon request.

(3) The authorization granted under subsection (1) is for a 2-year period consistent with the 2-year license cycle of the pharmacy. The department may, without prior notice to the pharmacist or pharmacy, physically inspect the facility where the compounding of nonsterile or sterile pharmaceuticals occurs.

(4) The department shall not authorize a pharmacist or compounding pharmacy to compound nonsterile or sterile pharmaceuticals without a prescription if the pharmacist or pharmacy is under investigation, is in the process of being disciplined, or is in a disciplinary status.

(5) Except as otherwise provided in this subsection, the department may immediately revoke the authorization granted under subsection (1) if there is a confirmed deviation or violation of the compounding process or if an adverse event directly related to sterility or integrity of the product and associated with a compounded nonsterile or sterile pharmaceutical is detected. If the health, safety, and welfare of the public are not in immediate jeopardy, the department shall provide at least 30 days' notice of the revocation of authorization under this subsection.

(6) A pharmacy or pharmacist authorized to compound pharmaceuticals under this section that becomes aware of an adverse event attributed to the integrity of the product of a compounded pharmaceutical shall report the adverse event to the department not later than 10 calendar days after becoming aware of the adverse event. For purposes of this subsection, an adverse event does not include an isolated allergic reaction to a substance included in the compound if the allergic reaction is treated and relieved with standard protocol.

(7) The department shall post and maintain a list of pharmacies and pharmacists who are authorized to compound pharmaceuticals under this section on its internet website. The department shall update the list required under this subsection at least quarterly.

(8) A prescriber or health facility or agency that obtains compounded pharmaceuticals under this section shall not redispense or sell the compounded pharmaceutical to a patient, a prescriber, or health facility or agency.

History: Add. 2014, Act 280, Eff. Sept. 30, 2014
Popular Name: Act 368

333.17748c Compounding pharmaceutical; commercial availability.

Sec. 17748c.

Except for pharmaceuticals on the Michigan pharmaceutical product list maintained by the department of community health, a pharmacist shall not compound a pharmaceutical that is commercially available unless 1 of the following requirements is met:

(a) The commercially available pharmaceutical is modified to produce a significant difference, in the professional judgment of the prescriber, between the compounded pharmaceutical for the patient and the comparable

commercially available pharmaceutical.

(b) The commercially available pharmaceutical is not available from normal distribution channels in a timely manner to meet the patient's needs and the dispensing of the compounded pharmaceutical has been approved by the prescriber and the patient. A pharmacist who compounds a commercially available pharmaceutical as provided in this subdivision shall maintain documentation of the reason for the compounding.

History: Add. 2014, Act 280, Eff. Sept. 30, 2014
Popular Name: Act 368

333.17748d Violation of MCL 333.17748a or 17748b; penality.

Sec. 17748d.

(1) Except as otherwise provided in this section, a person that violates section 17748a or 17748b is guilty of a misdemeanor.

(2) Except as otherwise provided in this section, a person that knowingly or willfully violates section 17748a or 17748b or a person that falsifies prescriptions in order to compound a pharmaceutical in bulk is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $1,000.00, or both.

(3) Except as otherwise provided in this section, a person that knowingly or willfully violates section 17748a or 17748b or a person that falsifies prescriptions in order to compound a pharmaceutical in bulk, which activity results in personal injury, is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $4,000.00, or both.

(4) A person that knowingly or willfully violates section 17748a or 17748b or a person that falsifies prescriptions in order to compound a pharmaceutical in bulk, which activity results in serious impairment of a body function, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both. As used in this subsection, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(5) A person that knowingly or willfully violates section 17748a or 17748b or a person that falsifies prescriptions in order to compound a pharmaceutical in bulk, which activity results in death, is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $20,000.00, or both.

(6) The state attorney general or county prosecutor may bring and prosecute criminal charges described in this section.

History: Add. 2014, Act 280, Eff. Sept. 30, 2014
Popular Name: Act 368

333.17748e Out-of-state pharmacy; facilitation of delivery or trade; use of wholesale distributor-broker; requirements; liability; license requirements; transaction records; notification; investigation; definitions.

Sec. 17748e.

(1) An out-of-state pharmacy that is not licensed under this part as a pharmacy may deliver or trade a drug or device salable on prescription only to a person located in this state only if the out-of-state pharmacy meets both of the following requirements:

(a) The out-of-state pharmacy holds a license in good standing as a pharmacy from the state in which it is located.

(b) The out-of-state pharmacy uses a wholesale distributor-broker that is licensed in this state to facilitate the transaction.

(2) Except as otherwise provided in this part, a pharmacy that is using a wholesale distributor-broker shall only deliver or trade a drug or device salable on prescription only that it receives from 1 or more of the following:

(a) A manufacturer.

(b) A wholesale distributor.

(c) Subject to subsection (3), a pharmacy.

(d) Subject to subsection (3), a qualified pharmacy.

(3) A drug salable on prescription only must not be delivered or traded between pharmacies, or between a pharmacy and a qualified pharmacy that is using a wholesale distributor-broker, unless all of the following are met:

(a) The pharmacy or qualified pharmacy from which the drug is being obtained receives a request for the drug that identifies the drug's brand name or generic name, lot number, expiration date, quality, quantity, and size.

(b) The drug is approved by the United States Food and Drug Administration.

(c) The drug is not expired at the time of the delivery or trade.

(d) The drug is not a controlled substance.

(e) Before delivering or trading the drug, the pharmacy or qualified pharmacy from which the drug is being obtained confirms with the pharmacy or qualified pharmacy receiving the drug that the drug is available for delivery or trade.

(f) The pharmacy or qualified pharmacy from which the drug is being obtained includes with the drug a packaging checklist, confirming that the drug being delivered or traded matches the information identified on the request described in subdivision (a).

(g) The drug is delivered or traded in the original manufacturer's packaging, whether sealed or unsealed, with the drug's national drug code, lot number, and expiration date conspicuously identified on the packaging. If the original manufacturer's packaging is unsealed at the time of the delivery or trade, the delivery or trade may include a quantity of the drug that is less than the quantity contained in the original manufacturer's packaging. However, the pharmacies, or the pharmacy and qualified pharmacy, shall not trade or deliver more than 1 unsealed or partial quantity of the drug during any consecutive 90-day period.

(h) If 1 of the pharmacies involved in the delivery or trade is a qualified pharmacy, the delivery or trade is intended to fill a prescription for an identified patient.

(4) A wholesale distributor-broker is not liable in a civil action for personal injury or death resulting from a drug or device salable on prescription only that was delivered or traded by a pharmacy or qualified pharmacy under this section, regardless of whether the wholesale distributor-broker is subject to disciplinary action under this part, if the wholesale distributor-broker's conduct does not amount to gross negligence as that term is defined in section 7 of 1964 PA 170, MCL 691.1407.

(5) To receive a license as a wholesale distributor-broker under this part, an applicant shall meet the requirements for licensure established by the department in consultation with the board by rule. The rules must require the applicant to demonstrate to the satisfaction of the board that, at the time of the application for initial licensure, the applicant facilitates deliveries or trades for at least 50 qualified pharmacies that are each licensed in good standing in their state of licensure. If the number of qualified pharmacies described in this subsection with which a wholesale distributor-broker facilitates deliveries and trades falls below 50, the wholesale distributor-broker may continue to do business in this state. However, a wholesale distributor-broker seeking renewal of its license shall, in addition to meeting any requirements for renewal under section 16201, demonstrate to the satisfaction of the board that the wholesale distributor-broker facilitates deliveries and trades for at least 50 qualified pharmacies at the time of license renewal.

(6) A wholesale distributor-broker shall provide a transaction history, transaction statement, or transaction information to a pharmacy purchasing a drug or device from a pharmacy or qualified pharmacy through the wholesale distributor-broker under this section if any of the following are met:

(a) A transaction history, transaction statement, or transaction information is required under the drug supply chain security act, Public Law 113-54.

(b) The qualified pharmacy provided the transaction history, transaction statement, or transaction information to the wholesale distributor-broker, and the wholesale distributer-broker receives a request for the document from the purchasing pharmacy. A wholesale distributor-broker that receives a document described in this subdivision shall retain the document for at least 7 years.

(7) A wholesale distributor-broker that receives notification from a pharmacy or qualified pharmacy that a delivery or trade facilitated by the wholesale distributor-broker involved a drug or device salable on prescription only that is a suspect product or illegitimate product shall immediately notify each of the following:

(a) The department.

(b) The United States Food and Drug Administration.

(c) Each pharmacy that received the product from the pharmacy or qualified pharmacy.

(8) Before facilitating the delivery or trade of a drug or device salable on prescription only to a pharmacy, the wholesale distributor-broker shall notify the pharmacy, in writing, that the wholesale distributor-broker will not examine the drug or device for quality or accuracy before the pharmacy receives the drug or device.

(9) A wholesale distributor-broker shall not facilitate a delivery or trade of a drug or device salable on prescription only between a pharmacy and a qualified pharmacy unless both of the following are met:

(a) The pharmacy's or qualified pharmacy's license is in good standing in its state of licensure at the time of the delivery or trade and the wholesale distributor-broker has no knowledge of pending disciplinary action against the pharmacy or qualified pharmacy in its state of licensure.

(b) The wholesale distributor-broker has, for the quarter in which the delivery or trade will occur, received from the pharmacy and qualified pharmacy a signed attestation that the pharmacy or qualified pharmacy holds a license in

good standing in its state of licensure and that the pharmacy or qualified pharmacy is in compliance with all applicable federal and state laws. The wholesale distributor-broker shall make an attestation received under this subdivision available to the department on the department's request.

(10) A wholesale distributor-broker shall cooperate with the department if the department is investigating a transaction involving the wholesale distributor-broker or a qualified pharmacy with which the wholesale distributor-broker facilitates transactions.

(11) As used in this section:

(a) "Illegitimate product" means that term as defined in 21 USC 360eee.

(b) "Out-of-state pharmacy" means a facility or part of a facility that is located outside of this state and that dispenses prescription drugs or prepares prescription drugs for delivery or distribution under the laws of the state in which it is located.

(c) "Qualified pharmacy" means an out-of-state pharmacy that meets the requirements described in subsection (1).

(d) "Suspect product" means that term as defined in 21 USC 360eee.

(e) "Transaction history" means that term as defined in 21 USC 360eee.

(f) "Transaction information" means that term as defined in 21 USC 360eee.

(g) "Transaction statement" means that term as defined in 21 USC 360eee.

History: Add. 2020, Act 142, Imd. Eff. July 14, 2020
Popular Name: Act 368

333.17748f Licensure of a pharmacy as a wholesale distributor or manufacturer; requirements.

Sec. 17748f.

(1) A pharmacy shall obtain a license as a wholesale distributor under this part if the total number of dosage units of all prescription drugs distributed by the pharmacy to a person during any consecutive 12-month period is more than 5% of the total number of dosage units of prescription drugs distributed and dispensed by the pharmacy during the same 12-month period. The calculation of the 5% threshold described in this subsection must not include a distribution of a prescription drug that is exempt from the definition of wholesale distribution under 21 USC 353(e)(4).

(2) A pharmacy shall obtain a license as a manufacturer under this part if, during any consecutive 12-month period, the total number of dosage units of all prescription drugs that are prepared or compounded by the pharmacy for the resale, compounding, or dispensing by another person is more than 5% of the total number of dosage units of prescription drugs prepared by the pharmacy during the same 12-month period.

History: Add. 2020, Act 142, Imd. Eff. July 14, 2020 ;-- Am. 2021, Act 130, Imd. Eff. Dec. 17, 2021
Popular Name: Act 368

333.17749 Dispensing of diagnostic or therapeutic pharmaceutical agents by wholesale distributor or pharmacist to optometrist; condition; â€œtherapeutic pharmaceutical agentâ€ and â€œdiagnostic pharmaceutical agentâ€ defined.

Sec. 17749.

(1) Notwithstanding any provision of this act or any rule promulgated under this act, a wholesale distributor or pharmacist may dispense a diagnostic pharmaceutical agent or a therapeutic pharmaceutical agent to a licensed optometrist for subsequent administration to optometric patients, if the optometrist provides the wholesale distributor or pharmacist with the number of the optometrist's certification of qualification to administer diagnostic pharmaceutical agents and the number of the optometrist's certification of qualification to administer and prescribe therapeutic pharmaceutical agents.

(2) As used in this section, "therapeutic pharmaceutical agent" and "diagnostic pharmaceutical agent" mean those terms as defined in section 17401.

History: Add. 1984, Act 42, Eff. Apr. 12, 1984 ;-- Am. 1994, Act 384, Eff. Mar. 30, 1995
Popular Name: Act 368

333.17750 Person who distributes complimentary starter doses to prescribers; records; access by board; â€œcomplimentary starter doseâ€ defined.

Sec. 17750.

(1) A person who distributes complimentary starter doses to prescribers shall maintain records that include at least all of the following information:
(a) The name and address of the manufacturer distributing the complimentary starter doses.
(b) The name and address of each prescriber to whom complimentary starter doses were distributed.
(c) The type and amount of complimentary starter doses distributed to each prescriber.
(2) Upon request of the board, a person who distributes complimentary starter doses to prescribers shall provide the board access to the records required under subsection (1).
(3) As used in this section, "complimentary starter dose" means that term as defined in section 17745(1).

History: Add. 1990, Act 333, Eff. Mar. 28, 1991
Popular Name: Act 368

333.17750a Dispensing of prescription for therapeutic pharmaceutical agent by pharmacist.

Sec. 17750a.

(1) A pharmacist may dispense a prescription for a therapeutic pharmaceutical agent issued by an optometrist certified by the Michigan board of optometry under part 174 as qualified to administer and prescribe therapeutic pharmaceutical agents.
(2) As used in this section, "therapeutic pharmaceutical agent" means that term as defined in section 17401.

History: Add. 1994, Act 384, Eff. Mar. 30, 1995
Popular Name: Act 368

333.17751 Dispensing prescription drug or device requiring prescription; requirements; exceptions.

Sec. 17751.

(1) Except as otherwise provided in sections 17724a and 17744f, a pharmacist shall not dispense a drug requiring a prescription under the federal act or a law of this state except under authority of an original prescription or an equivalent record of an original prescription approved by the board. A pharmacist described in section 17742b(2) may dispense a drug pursuant to an original prescription received at a remote pharmacy if the pharmacist receives, reviews, and verifies an exact digital image of the prescription received at the remote pharmacy before the drug is dispensed at the remote pharmacy.
(2) Subject to this subsection and subsections (1) and (5), a pharmacist may dispense a drug or device pursuant to a prescription written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a prescriber in another state or province of Canada, but not including a prescription for a controlled substance except under circumstances described in section 17763(e). Before dispensing a drug or device pursuant to a prescription under this subsection, the pharmacist, in

the exercise of the pharmacist's professional judgment, must determine all of the following:

(a) Except as otherwise authorized under section 5110, 17744a, or 17744b, if the prescriber is not a veterinarian, that the prescription was issued pursuant to an existing prescriber-patient relationship.

(b) That the prescription is authentic.

(c) That the prescribed drug is appropriate and necessary for the treatment of an acute, chronic, or recurrent condition.

(3) A pharmacist or a prescriber shall dispense a drug or device pursuant to a prescription only if the prescription falls within the scope of practice of the prescriber or if the prescription was issued by a pharmacist in accordance with this part.

(4) A pharmacist shall not knowingly dispense a drug or device pursuant to a prescription after the death of the patient.

(5) A pharmacist shall not dispense a drug or device pursuant to a prescription transmitted by facsimile or created in electronic format and printed out for use by the patient unless the document is manually signed by the prescriber. This subsection does not apply to any of the following:

(a) A prescription that is transmitted by a computer to a facsimile machine if that prescription complies with section 17754 or 17754a.

(b) A prescription that is received by a remote pharmacy and made available to a pharmacist described in section 17742b(2) for review and verification in the manner required under subsection (1).

(6) After consultation with and agreement from the prescriber, a pharmacist may add or change a patient's address, a dosage form, a drug strength, a drug quantity, a direction for use, or an issue date with regard to a prescription. A pharmacist shall note the details of the consultation and agreement required under this subsection on the prescription or, if the drug is dispensed at a remote pharmacy, on the digital image of the prescription described in subsection (1), and shall maintain that documentation with the prescription as required in section 17752. A pharmacist shall not change the patient's name, controlled substance prescribed unless authorized to dispense a lower cost generically equivalent drug product under section 17755, or the prescriber's signature with regard to a prescription.

(7) A prescription that is contained within a patient's chart in a health facility or agency licensed under article 17 or other medical institution and that is transmitted to a pharmacy under section 17744 is the original prescription. If all other requirements of this part are met, a pharmacist shall dispense a drug or device pursuant to a prescription described in this subsection. A pharmacist may dispense a drug or device pursuant to a prescription described in this subsection even if the prescription does not contain the quantity ordered. If a prescription described in this subsection does not contain the quantity ordered, the pharmacist shall consult with the prescriber to determine an agreed-upon quantity. The pharmacist shall record the quantity dispensed on the prescription and shall maintain that documentation with the prescription as required in section 17752.

(8) If, after consulting with a patient, a pharmacist determines in the exercise of the pharmacist's professional judgment that dispensing additional quantities of a prescription drug is appropriate for the patient, the pharmacist may dispense, at one time, additional quantities of the prescription drug up to the total number of dosage units authorized by the prescriber on the original prescription for the patient and any refills of the prescription. Except for a controlled substance included in schedule 5 that does not contain an opioid, this subsection does not apply to a prescription for a controlled substance.

(9) Notwithstanding any provision of this section, a pharmacist who receives a prescription under subsection (2) from an advanced practice registered nurse prescriber or physician's assistant prescriber in another state or province of Canada may dispense the drug or device without determining whether the advanced practice registered nurse prescriber or physician's assistant prescriber is authorized under the laws of the other state or province of Canada to issue the prescription.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1997, Act 153, Eff. Mar. 31, 1998 ;-- Am. 2005, Act 85, Imd. Eff. July 19, 2005 ;-- Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007 ;-- Am. 2011, Act 155, Imd. Eff. Sept. 27, 2011 ;-- Am. 2012, Act 209, Imd. Eff. June 27, 2012 ;-- Am. 2013, Act 186, Eff. Mar. 14, 2014 ;-- Am. 2014, Act 311, Imd. Eff. Oct. 14, 2014 ;-- Am. 2014, Act 525, Imd. Eff. Jan. 14, 2015 ;-- Am. 2016, Act 49, Eff. June 13, 2016 ;-- Am. 2017, Act 165, Eff. Feb. 11, 2018 ;-- Am. 2020, Act 4, Eff. Apr. 26, 2020 ;-- Am. 2020, Act 136, Imd. Eff. July 8, 2020 ;-- Am. 2021, Act 36, Imd. Eff. July 1, 2021 ;-- Am. 2022, Act 80, Eff. Mar. 29, 2023 ;-- Am. 2023, Act 97, Imd. Eff. July 19, 2023 ;-- Am. 2024, Act 242, Eff. Apr. 2, 2025

Compiler's Notes: Enacting section 1 of Act 49 of 2016 provides:"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."

Popular Name: Act 368

333.17752 Prescription or equivalent record; preservation; disclosure; providing copies; refilling copy; applicability of subsection (3) to pharmacies sharing real-time, on-line database and remote pharmacies; "equivalent record" defined.

Sec. 17752.

(1) A licensee or dispensing prescriber shall preserve a prescription, or an equivalent record of the prescription approved by the board, for not less than 5 years.

(2) A prescription or equivalent record on file in a pharmacy is not a public record. A person having custody of or access to prescriptions shall not disclose their contents or provide copies without the patient's authorization, to any person except to any of the following:

(a) The patient for whom the prescription was issued, or another pharmacist acting on behalf of the patient.

(b) The authorized prescriber who issued the prescription, or a licensed health professional who is currently treating the patient.

(c) An agency or agent of government responsible for the enforcement of laws relating to drugs and devices.

(d) A person authorized by a court order.

(e) A person engaged in research projects or studies with protocols approved by the board.

(3) A pharmacist may refill a copy of a prescription from another pharmacy if the original prescription has remaining authorized refills, and the copy is issued according to the following procedure:

(a) The pharmacist issuing a written or oral copy of a prescription shall cancel the original prescription and record the cancellation. The record of cancellation must include the date the copy was issued, to whom issued, and the identification of the pharmacist who issued the copy.

(b) The written or oral copy issued must be a duplicate of the original prescription except that it must also include the prescription number, the name of the pharmacy issuing the copy, the date the copy was issued, and the number of authorized refills remaining available to the patient.

(c) The pharmacist receiving a written or oral copy of the prescription shall exercise reasonable diligence to determine whether it is a valid copy, and having done so may treat the copy as an original prescription.

(d) Except as described in this part, all other copies furnished must be used for information purposes only and clearly marked "for informational or reference purposes only".

(4) Subsection (3) does not apply to any of the following:

(a) Pharmacies that share a real-time, on-line database or other equivalent means of communication.

(b) Pharmacies that transfer prescriptions pursuant to a written contract for centralized prescription processing services as provided under section 17753.

(c) A parent pharmacy if the parent pharmacy receives a copy of a prescription from a remote pharmacy that it operates.

(d) A remote pharmacy if the remote pharmacy receives a copy of a prescription from a parent pharmacy.

(5) For purposes of this section, "equivalent record of the prescription approved by the board" or "equivalent record" includes a digital image described in section 17751(1).

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2005, Act 73, Imd. Eff. July 19, 2005 ;-- Am. 2020, Act 4, Eff. Apr. 26, 2020
Popular Name: Act 368

333.17753 Centralized prescription processing; conditions for performing or contracting; maintenance of policy and procedures manual; definition.

Sec. 17753.

(1) A pharmacy may perform centralized prescription processing services or outsource those services to another pharmacy if each of the following conditions is satisfied:

(a) The pharmacies have the same owner or have a written contract outlining the services to be provided and the responsibilities and accountabilities of each pharmacy in fulfilling the terms of the contract in compliance with federal and state laws and regulations.

(b) The pharmacies share a common electronic file or have appropriate technology to allow access to sufficient information necessary or required to prepare a prescription drug order.

(c) The pharmacies comply with federal and state laws and regulations.

(2) A pharmacy that performs, or contracts for, centralized prescription processing services shall maintain a

policy and procedures manual, along with documentation that implementation is occurring, and each shall be made available to the board for inspection and review upon request and the manual shall include, but is not limited to, a detailed description of how the pharmacies will do all of the following:

(a) Maintain appropriate records to identify the responsible pharmacist, or pharmacists, in the various stages of the drug product preparation, dispensing, and counseling process.

(b) Track the prescription drug order during each step in the drug product preparation, dispensing, and counseling process.

(c) Identify on the prescription label each pharmacy involved in the preparation and dispensing of the prescription drug order.

(d) Provide adequate security to protect the confidentiality and integrity of a patient's protected health information.

(e) Implement and maintain a quality improvement program for pharmacy services designed to objectively and systematically monitor and evaluate the quality and appropriateness of patient care, pursue opportunities to improve patient care, and resolve identified problems.

(3) As used in this section, "centralized prescription processing" means the processing by a pharmacy of a request from another pharmacy to fill or refill a prescription drug order or to perform processing functions such as dispensing, performing drug utilization review, completing claims adjudication, obtaining refill authorizations, initiating therapeutic interventions, and other functions related to the practice of pharmacy.

History: Add. 2005, Act 72, Imd. Eff. July 19, 2005
Popular Name: Act 368

333.17754 Electronic transmission of prescription; conditions; information; confidentiality; professional judgment as to accuracy, validity, and authenticity; original prescription; inapplicable after October 1, 2021.

Sec. 17754.

(1) Except as otherwise provided under article 7, article 8, and the federal act, a prescription may be transmitted electronically if the prescription is transmitted in compliance with the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, by a prescriber or his or her agent and the data are not altered or modified in the transmission process. The electronically transmitted prescription must include all of the following information:

(a) The name, address, and telephone number of the prescriber.

(b) Except as otherwise authorized under section 5110, 17744a, or 17744b, the full name of the patient for whom the prescription is issued.

(c) An electronic signature or other identifier that specifically identifies and authenticates the prescriber or his or her agent.

(d) The time and date of the transmission.

(e) The identity of the pharmacy intended to receive the transmission.

(f) Any other information required by the federal act or state law.

(2) The electronic equipment or system utilized in the transmission and communication of prescriptions must provide adequate confidentiality safeguards and be maintained to protect patient confidentiality as required under any applicable federal and state law and to ensure against unauthorized access. The electronic transmission of a prescription must be communicated in a retrievable, recognizable form acceptable to the intended recipient. The electronic form utilized in the transmission of a prescription must not include "dispense as written" or "d.a.w." as the default setting.

(3) Before dispensing a prescription that is electronically transmitted, the pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the transmitted prescription.

(4) An electronically transmitted prescription that meets the requirements of this section is the original prescription.

(5) This section does not apply beginning on the date on which section 17754a applies.

History: Add. 2006, Act 672, Imd. Eff. Jan. 10, 2007 ;-- Am. 2012, Act 209, Imd. Eff. June 27, 2012 ;-- Am. 2013, Act 186, Eff. Mar. 14, 2014 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013 ;-- Am. 2014, Act 311, Imd. Eff. Oct. 14, 2014 ;-- Am. 2014, Act 525, Imd. Eff. Jan.

333.17754a Electronic transmission of prescription; conditions; information; confidentiality; professional judgment as to accuracy, validity, and authenticity; exceptions; waiver; rules; delayed implementation.

Sec. 17754a.

(1) Except as otherwise provided under article 8, the federal act, or subsection (5), and subject to subsection (10), beginning October 1, 2021, a prescriber or his or her agent shall electronically transmit a prescription, including a prescription for a controlled substance, directly to a pharmacy of the patient's choice. A prescription that is transmitted electronically under this section must be in compliance with the health insurance portability and accountability act of 1996, Public Law 104-191, or regulations promulgated under that act, 45 CFR parts 160 and 164, and the data must not be altered or modified in the transmission process. The electronically transmitted prescription must include all of the following information:

(a) The name, address, and telephone number of the prescriber.

(b) Except as otherwise authorized under section 5110, 17744a, or 17744b, the full name of the patient for whom the prescription is issued.

(c) An electronic signature or other identifier that specifically identifies and authenticates the prescriber or his or her agent.

(d) The time and date of the transmission.

(e) The identity of the pharmacy intended to receive the transmission.

(f) Any other information required by the federal act or state law.

(2) The electronic equipment or system utilized in the transmission and communication of prescriptions under this section must provide adequate confidentiality safeguards and be maintained to protect patient confidentiality as required under any applicable federal and state law and to ensure against unauthorized access. The electronic transmission of a prescription under this section must be communicated in a retrievable, recognizable form acceptable to the intended recipient. The electronic form utilized in the transmission of a prescription must not include "dispense as written" or "d.a.w." as the default setting.

(3) Before dispensing a prescription that is electronically transmitted under this section, the pharmacist shall exercise professional judgment regarding the accuracy, validity, and authenticity of the transmitted prescription.

(4) An electronically transmitted prescription that meets the requirements of this section is the original prescription.

(5) The requirement to transmit a prescription electronically under subsection (1) does not apply under any of the following circumstances:

(a) If the prescription is issued by a prescriber who is a veterinarian licensed under this article.

(b) If the prescription is issued under a circumstance in which electronic transmission is not available due to a temporary technological or electrical failure.

(c) If the prescription is issued by a prescriber who has received a waiver from the department under subsection (7).

(d) If the prescription is issued by a prescriber who reasonably believes that electronically transmitting the prescription would make it impractical for the patient who is the subject of the prescription to obtain the prescription drug in a timely manner and that the delay would adversely affect the patient's medical condition. A prescriber who does not electronically transmit a prescription under this subdivision shall document the specific reason for his or her belief that the delay would adversely affect the patient's medical condition.

(e) If the prescription is orally prescribed under section 7333(3) or (4).

(f) If the prescription is issued by a prescriber to be dispensed outside of this state.

(g) If the prescription is issued by a prescriber who is located outside of this state to be dispensed by a pharmacy located inside of this state.

(h) If the prescription is issued and dispensed in the same health care facility and the individual for whom the prescription is issued uses the drug exclusively in the health care facility. As used in this subdivision, "health care facility" includes, but is not limited to, any of the following:

(i) A hospital.

(ii) A hospice.

(iii) A dialysis treatment clinic.

(iv) A freestanding surgical outpatient facility.

(v) A skilled nursing facility.

(vi) A long-term care facility that provides rehabilitative, restorative, or ongoing skilled nursing care to an

individual who is in need of assistance with activities of daily living.

(i) If the prescription contains content that is not supported by the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard.

(j) If the prescription is for a drug for which the FDA requires the prescription to contain content that cannot be transmitted electronically.

(k) If the prescription is issued under circumstances in which the prescriber is not required to include on the prescription a name of a patient for whom the prescription is issued including, but not limited to, a prescription issued under section 5110.

(l) If the prescription is issued by a prescriber who is prescribing the drug under a research protocol.

(m) If the prescription is dispensed by a dispensing prescriber.

(n) If the prescription is for a dialysis-related drug that is administered as part of or incident to a home-based dialysis treatment.

(6) If a prescriber has not been granted a waiver from the department under subsection (7) and the prescriber does not electronically transmit a prescription under an exception described in subsection (5), the prescriber shall document the applicable exception and provide that documentation to the department on request.

(7) If a prescriber cannot meet the requirements of subsection (1) or (2), the prescriber may apply to the department for a waiver in a form and manner required by the department. The department shall establish by rule the requirements for obtaining a waiver under this subsection. The rules must not establish requirements that are more stringent than any requirements used by the federal Centers for Medicare and Medicaid Services for waiving the Medicare requirement for the electronic transmission of controlled substance prescriptions. If a prescriber provides evidence satisfactory to the department that the prescriber has received a waiver of the Medicare requirement for the electronic transmission of controlled substances prescriptions from the federal Centers for Medicare and Medicaid Services, the department shall grant a waiver to the prescriber under this subsection. A waiver that is granted by the department under this subsection is valid for a period not to exceed 2 years and is renewable.

(8) A pharmacist who receives a prescription that was not transmitted electronically to the pharmacy may dispense the prescription without determining whether an exception under subsection (5) applies.

(9) The department, in consultation with the board, shall promulgate rules to implement this section.

(10) If the federal Centers for Medicare and Medicaid Services delays the Medicare requirement for the electronic transmission of prescriptions for controlled substances beyond October 1, 2021, then the department shall delay the implementation date of subsection (1) to the date established by the federal Centers for Medicare and Medicaid Services for the Medicare requirement.

History: Add. 2020, Act 134, Imd. Eff. July 8, 2020 ;-- Am. 2021, Act 94, Imd. Eff. Oct. 29, 2021
Popular Name: Act 368

333.17755 Dispensing lower cost generically equivalent drug product or interchangeable biological drug product; notice; contents of prescription label; limitation; restrictions; limitation on total charge; communication to be provided prescriber; exception; link on website to Purple Book; report; definitions.

Sec. 17755.

(1) Except as provided in subsection (3), when a pharmacist receives a prescription for a brand name drug product or biological drug product, the pharmacist may, or when a purchaser requests a lower cost generically equivalent drug product or interchangeable biological drug product, the pharmacist shall dispense a lower cost but not higher cost generically equivalent drug product or interchangeable biological drug product if available in the pharmacy. If a drug or biological drug product is dispensed that is not the prescribed brand, the purchaser must be notified and the prescription label must indicate both the name of the brand prescribed and the name of the brand dispensed and designate each respectively. Except as otherwise provided in section 17756, if the dispensed drug or biological drug product does not have a brand name, the prescription label must indicate the generic name of the drug dispensed or the proprietary name of the biological drug product dispensed.

(2) If a pharmacist substitutes a lower cost generically equivalent drug product or interchangeable biological drug product to a purchaser who is not submitting a claim to a third-party payment source, the pharmacist shall charge the purchaser not more than the current selling price for the lower cost drug product.

(3) The pharmacist shall not dispense a generically equivalent drug product or interchangeable biological drug product under subsection (1) if any of the following apply:

(a) The prescriber, in the case of a prescription in writing signed by the prescriber, writes in his or her own handwriting "dispense as written" or "d.a.w." on the prescription.

(b) The prescriber, having preprinted on his or her prescription blanks the statement "another brand of a generically equivalent product, identical in dosage, form, and content of active ingredients, may be dispensed unless initialed d.a.w.", writes in his or her own handwriting the initials "d.a.w." in a space, box, or square adjacent to the statement.

(c) The prescriber, in the case of a prescription other than one in writing signed by the prescriber, expressly indicates that the prescription is to be dispensed as communicated.

(4) A pharmacist may not dispense a drug product with a total charge that exceeds the total charge of the drug product originally prescribed, unless agreed to by the purchaser.

(5) Except as otherwise provided in subsection (6), within 5 days after dispensing an interchangeable biological drug product, the dispensing pharmacist or his or her designee shall communicate to the prescriber the specific interchangeable biological drug product provided to the patient, including the name of the interchangeable biological drug product and its manufacturer. The communication required under this subsection must be made as follows:

(a) By making an entry that is electronically accessible to the prescriber through an interoperable electronic medical records system, an electronic prescribing technology, a pharmacy benefit management system, a health information exchange, or a pharmacy record. An entry made as described in this subdivision is presumed to provide notice to the prescriber.

(b) If the methods described in subdivision (a) are not available, then by facsimile, telephone, electronic transmission, or other prevailing means.

(6) Subsection (5) does not apply if either of the following occurs:

(a) There is no FDA-licensed interchangeable biological drug product for the product prescribed.

(b) A refill authorization does not change the product that was dispensed on the prior filling of the prescription.

(7) The board shall maintain a link on its website to the current Purple Book.

(8) Beginning June 1, 2018 and annually thereafter, the department shall submit a report on all of the following to the house and senate standing committees on health policy, the speaker of the house of representatives, and the senate majority leader:

(a) A list of each biological drug product that the FDA had previously determined to be therapeutically equivalent as set forth in the Orange Book that is now included in the Purple Book.

(b) The anticipated date that every biological drug product that the FDA has determined to be therapeutically equivalent as set forth in the Orange Book will be included in the Purple Book.

(9) As used in this section:

(a) "Orange Book" means "Approved Drug Products with Therapeutic Equivalence Evaluations", an FDA publication that is commonly referred to as the "Orange Book".

(b) "Purple Book" means "Lists of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations", an FDA publication that is commonly referred to as the "Purple Book".

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2018, Act 41, Eff. May 29, 2018 ;-- Am. 2018, Act 246, Eff. Sept. 26, 2018
Popular Name: Act 368

333.17756 Label on prescription; contents.

Sec. 17756.

(1) A prescription dispensed by a pharmacist shall bear upon the label the name of the medication in the container, unless the prescriber writes "do not label" on the prescription. The prescription shall also bear upon the label the following statement: "Discard this medication 1 year after the date it is dispensed.", unless the medication expires on another date under applicable state or federal law or rules or regulations or other state or federal standards. If the medication expires on another date, the pharmacist dispensing the prescription shall strike or omit the statement required under this subsection and shall specify on the label the actual expiration date of the medication.

(2) A label on a prescription dispensed by a dispensing prescriber shall include the name of the medication in the container. The label shall also include the statement required under subsection (1) or the actual expiration date of the medication in the container in the same manner required under subsection (1) for a prescription dispensed by a pharmacist.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 73, Eff. Jan. 1, 1994
Popular Name: Act 368

333.17757 Price information; prohibited conduct; notice; receipt evidencing transactions; omission; retention of copy of receipt; rules.

Sec. 17757.

(1) When a pharmacist engaged in the business of selling drugs receives a prescription, the pharmacist may, or, when the pharmacist receives a request made in person or by telephone, the pharmacist shall provide the current selling price of a drug dispensed by that pharmacy or comparative current selling prices of generic and brand name drugs or biosimilar drug products dispensed by that pharmacy. If information is provided under this subsection, it must be provided before a drug is dispensed. A person that makes a request for or receives price information under this subsection is not obligated to purchase the drug for which the price or comparative prices are requested or received. A pharmacy or a pharmacist described in this subsection shall not enter into a contract that prohibits the disclosure of the information described in this subsection.

(2) A pharmacist engaged in the business of selling drugs shall conspicuously display the notice described in subsection (3) at each counter over which prescription drugs are dispensed.

(3) The notice required under subsection (2) must be in substantially the following form:

NOTICE TO CONSUMERS

ABOUT PRESCRIPTION DRUGS

Under Michigan law, you have the right to find out the price of a prescription drug before the pharmacist fills the prescription. You are under no obligation to have the prescription filled here and may use this price information to shop around at other pharmacies. You may request price information in person or by telephone.

Every pharmacy has the current selling prices of both generic and brand name drugs dispensed by the pharmacy.

Ask your pharmacist if a lower-cost generic drug is available to fill your prescription. A generic drug contains the same medicine as a brand name drug and is a suitable substitute in most instances.

A generic drug may not be dispensed by your pharmacist if your doctor has written "dispense as written" or the initials "d.a.w." on the prescription.

If you have questions about the drugs that have been prescribed for you, ask your doctor or pharmacist for more information.

To avoid dangerous drug interactions, let your doctor and pharmacist know about any other medications you are taking. This is especially important if you have more than 1 doctor or have prescriptions filled at more than 1 pharmacy.

(4) The notice required under subsection (2) must also contain the address and phone number of the board and the department. The text of the notice must be in at least 32-point bold type and be printed on paper at least 11 inches by 17 inches in size. The notice may be printed on multiple pages.

(5) The department shall provide a copy of the notice required under subsection (2) to each licensee. The department shall provide additional copies if needed. A person may duplicate or reproduce the notice if the duplication or reproduction is a true copy of the notice as produced by the department, without any additions or deletions.

(6) The pharmacist shall furnish to the purchaser of a prescription drug at the time the drug is delivered to the purchaser a receipt evidencing the transactions that contains all of the following:

(a) The brand name of the drug, if applicable.

(b) The name of the manufacturer or the supplier of the drug, if the drug does not have a brand name.

(c) The strength of the drug, if significant.

(d) The quantity dispensed, if applicable.

(e) The name and address of the pharmacy.

(f) The serial number of the prescription, a reference to the standing order issued under section 17744e, or, if the prescription drug is dispensed pursuant to section 17724a or 17744f, a reference to the applicable section.

(g) The date the prescription was originally dispensed, if applicable.

(h) The name of the prescriber or, if prescribed under the prescriber's delegatory authority, the name of the delegatee. If the prescription drug is dispensed pursuant to section 17744f, the name of the original prescriber and the pharmacist dispensing the prescription drug. If the prescription drug is dispensed pursuant to section 17724a, the name of the pharmacist dispensing the prescription drug. If the prescription was issued under section 17744g, the name of the pharmacist issuing the prescription.

(i) Except as otherwise authorized under section 5110, 17744a, 17744b, or 17744e, the name of the patient for

whom the drug was prescribed or dispensed.

(j) The price for which the drug was sold to the purchaser.

(7) The items required under subsection (6)(a), (b), and (c) may be omitted from a receipt by a pharmacist only if the omission is expressly required by the prescriber. The pharmacist shall retain a copy of each receipt furnished under subsection (6) for 90 days. Including the items required under subsection (6) on the prescription container label is a valid receipt to the purchaser. Including the items required under subsection (6) on the written prescription form and retaining the form constitutes retention of a copy of the receipt.

(8) The department, in consultation with the board, may promulgate rules to implement this section.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 304, Eff. Mar. 31, 1987 ;-- Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011 ;-- Am. 2013, Act 186, Eff. Mar. 14, 2014 ;-- Am. 2014, Act 311, Imd. Eff. Oct. 14, 2014 ;-- Am. 2014, Act 525, Imd. Eff. Jan. 14, 2015 ;-- Am. 2016, Act 383, Eff. Mar. 28, 2017 ;-- Am. 2021, Act 36, Imd. Eff. July 1, 2021 ;-- Am. 2022, Act 13, Imd. Eff. Feb. 23, 2022 ;-- Am. 2023, Act 97, Imd. Eff. July 19, 2023 ;-- Am. 2024, Act 242, Eff. Apr. 2, 2025
Popular Name: Act 368

333.17757a Providing selling price of drugs dispensed upon request; notice to consumers about prescription drugs; contents; form; display; copies.

Sec. 17757a.

(1) Upon a request made in person or by telephone, a dispensing prescriber engaged in the business of selling prescription drugs shall provide the current selling price of a drug dispensed by that dispensing prescriber or comparative current selling prices of generic and brand name drugs dispensed by that dispensing prescriber. The information shall be provided to the person making the request before a prescription drug is dispensed to the person. A person who makes a request for price information under this subsection is not obligated to purchase the prescription drug for which the price or comparative prices are requested.

(2) A dispensing prescriber engaged in the business of selling prescription drugs shall conspicuously display the notice described in subsection (3) in the location within the dispensing prescriber's practice where the dispensing occurs.

(3) The notice required under subsection (2) shall be in substantially the following form:

NOTICE TO CONSUMERS ABOUT PRESCRIPTION DRUGS

Under Michigan law, you have the right to find out the price of a prescription drug before the doctor provides a prescription drug directly to you. You are under no obligation to have the prescription filled here and may use this price information to shop around.

You may choose to have the prescription filled by your doctor or the pharmacy of your choice. Your doctor may not force you to have the prescription filled by the doctor. Your doctor cannot charge you for medications marked "sample." Ask your doctor or pharmacist if a lower-cost generic drug is available to fill your prescription. A generic drug contains the same medicine as a brand name drug and is a suitable substitute in most cases. If you have questions about the drugs which have been prescribed for you, ask your doctor or pharmacist for more information. To avoid dangerous drug interactions, let your doctor and pharmacist know about any other medications you are taking. This is especially important if you have more than 1 doctor or have prescriptions filled at more than 1 location.

(4) The notice required under subsection (2) shall also contain the address and phone number of the board and the department. The text of the notice shall be in at least 32-point bold type and shall be printed on paper at least 11 inches by 17 inches in size. The notice may be printed on multiple pages.

(5) A copy of the notice required under subsection (2) shall be provided to each dispensing prescriber by the department. Additional copies shall be available if needed from the department. A person may duplicate or reproduce the notice if the duplication or reproduction is a true copy of the notice as produced by the department, without any additions or deletions.

History: Add. 1990, Act 333, Eff. Mar. 28, 1991 ;-- Am. 1993, Act 305, Imd. Eff. Dec. 28, 1993
Popular Name: Act 368

333.17757b Contracts with pharmacy benefit managers; prohibited terms.

Sec. 17757b.

(1) A pharmacy or pharmacist engaged in the business of selling drugs shall not enter into a contract with a pharmacy benefit manager that violates section 26 of the third party administrator act, 1984 PA 218, MCL 550.926, or that prevents or interferes with in any manner a patient's choice to receive an eligible prescription drug from a 340b entity or a pharmacy when dispensing a 340b drug.

(2) As used in this section:

(a) "340b drug" means a covered drug as that term is defined in 42 USC 256b.

(b) "340b entity" means a covered entity as that term is defined in 42 USC 256b.

(c) "Pharmacy benefit manager" means that term as defined in section 2 of the third party administrator act, 1984 PA 218, MCL 550.902.

History: Add. 2022, Act 13, Imd. Eff. Feb. 23, 2022
Popular Name: Act 368

333.17758 Repealed. 1986, Act 304, Eff. Mar. 31, 1987.

Compiler's Notes: The repealed section pertained to changing current selling price of drug and adjusting posted price.
Popular Name: Act 368

333.17759 Dispensing harmful drug; requirements.

Sec. 17759.

A harmful drug shall be dispensed only:

(a) As a prescription drug.

(b) Under the control of a licensed pharmacist or prescriber, who maintains records for the dispensing of these drugs which are the same as records required for the dispensing of prescriptions.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17760 Operation of automated device not located at same address as pharmacy; control and supervision by pharmacist; delegation of tasks.

Sec. 17760.

(1) A pharmacy that is owned and operated by a hospital licensed under article 17 may operate an automated device at a location that is affiliated with the hospital but that is not located at the same physical address as the pharmacy. A pharmacy that operates an automated device under this section shall notify the department of the automated device's location.

(2) An automated device that is operated under this section must be under the control and supervision of the pharmacist in charge for the pharmacy described in subsection (1). The pharmacist in charge for the pharmacy described in subsection (1) may, in accordance with the requirements for delegation and supervision in this article, delegate the stocking of the automated device, the removal of medication from the automated device, the maintenance of the automated device, and other tasks related to the operation of the automated device, but he or

she is not required to be immediately physically present to supervise a delegated task. The operation of the automated device is limited to licensed health professionals.

History: Add. 2016, Act 528, Eff. Apr. 9, 2017
Popular Name: Act 368

333.17761 Display of notice; dispensing prescription in safety closure container.

Sec. 17761.

(1) A pharmacy, except for a pharmacy which only dispenses drugs for inpatient use at a health care facility, shall display the notice required under section 17757 in accordance with this part and the rules promulgated under this part.

(2) Unless otherwise requested by a patient, a prescription shall be dispensed in a safety closure container which complies with the definitions and the requirements of the poison prevention packaging act of 1970, 15 U.S.C. sections 1471 to 1476.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1980, Act 431, Eff. Mar. 31, 1981 ;-- Am. 1986, Act 304, Eff. Mar. 31, 1987
Popular Name: Act 368

333.17762 Misbranded prescription.

Sec. 17762.

(1) A prescription drug is considered misbranded unless the manufacturer's label states the name and place of business of the manufacturer of the finished dosage form of a drug and, if different, the name and place of business of the packer or distributor.

(2) As used in this section, "finished dosage form of a drug" means that form of the drug which is or is intended to be dispensed or administered to the patient and does not require further manufacturing or processing other than packaging or labeling, or both.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17763 Grounds for fine, reprimand, or probation; grounds for denying, limiting, suspending, or revoking license.

Sec. 17763.

In addition to the grounds set forth in part 161, the disciplinary subcommittee may fine, reprimand, or place a pharmacist licensee on probation, or deny, limit, suspend, or revoke the license of a pharmacist or order restitution or community service for a violation or abetting in a violation of this part or rules promulgated under this part, or for 1 or more of the following grounds:

(a) Permitting the dispensing of prescriptions by an individual who is not a pharmacist, pharmacist intern, or dispensing prescriber.

(b) Permitting the dispensing of prescriptions by a pharmacist intern, except in the presence and under the personal charge of a pharmacist.

(c) Selling at auction drugs in bulk or in open packages unless the sale has been approved in accordance with rules of the board.

(d) Promoting a prescription drug to the public in any manner.

(e) In addition to the prohibition contained in section 7405(1)(e), dispensing a prescription for a controlled substance as defined in section 7104 that is written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a physician prescriber, dentist prescriber, or veterinarian prescriber in another state, unless the prescription is issued by a physician prescriber, dentist prescriber, or veterinarian prescriber who is authorized under the laws of that state to practice dentistry, medicine, osteopathic medicine and surgery, or veterinary medicine and to prescribe controlled substances.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 1997, Act 153, Eff. Mar. 31, 1998 ;-- Am. 2004, Act 214, Eff. Oct. 12, 2004 ;-- Am. 2004, Act 536, Imd. Eff. Jan. 3, 2005 ;-- Am. 2005, Act 85, Imd. Eff. July 19, 2005 ;-- Am. 2006, Act 672, Imd. Eff. Jan. 10, 2007 ;-- Am. 2009, Act 150, Imd. Eff. Nov. 19, 2009 ;-- Am. 2011, Act 155, Imd. Eff. Sept. 27, 2011 ;-- Am. 2012, Act 209, Imd. Eff. June 27, 2012 ;-- Am. 2016, Act 49, Eff. June 13, 2016
Compiler's Notes: Enacting section 1 of Act 49 of 2016 provides:"Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018."
Popular Name: Act 368

333.17764 Conduct constituting misdemeanor; violation; penalty; other violations.

Sec. 17764.

(1) A person shall not sell, offer for sale, possess for sale, or manufacture for sale a drug or device bearing or accompanied by a label that is misleading as to the contents, uses, or purposes of the drug or device. A person who violates this subsection is guilty of a misdemeanor. In determining whether a label is misleading, consideration shall be given to the representations made or suggested by the statement, word, design, device, sound, or any combination thereof, and the extent to which the label fails to reveal facts material in view of the representations made or material as to consequences that may result from use of the drug or device to which the label relates under conditions of use prescribed in the label or under customary or usual conditions of use.

(2) A person shall not knowingly or recklessly do either of the following:

(a) Adulterate, misbrand, remove, or substitute a drug or device knowing or intending that the drug or device shall be used.

(b) Sell, offer for sale, possess for sale, cause to be sold, or manufacture for sale an adulterated or misbranded drug.

(3) Except as otherwise provided in this section, a person who violates subsection (2) is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $1,000.00, or both.

(4) A person who violates subsection (2), which violation results in personal injury, is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $4,000.00, or both.

(5) A person who violates subsection (2), which violation results in serious impairment of a body function, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both. As used in this subsection, "serious impairment of a body function" means that term as defined in section 58c of the Michigan vehicle code, 1949 PA 300, MCL 257.58c.

(6) A person who violates subsection (2), which violation results in death, is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than $20,000.00, or both.

(7) A person who violates subsection (2) with the intent to kill or to cause serious impairment of a body function of 2 or more individuals, which violation results in death, is guilty of a felony punishable by imprisonment for life without the possibility of parole or life without the possibility of parole and a fine of not more than $40,000.00. It is not a defense to a charge under this subsection that the person did not intend to kill a specific individual, or did not intend to cause serious impairment of a body function of 2 or more specific individuals.

(8) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law that is committed by that individual while violating this section.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2004, Act 214, Eff. Oct. 12, 2004
Popular Name: Act 368

333.17765 Adulteration or misbranding; guaranty or undertaking as protection against penalties for

violation; exception; notice to seller, manufacturer, or wholesale distributor.

Sec. 17765.

A person is not subject to penalties for a violation of this part dealing with adulteration or misbranding, if the person establishes that a guaranty or undertaking was made in accordance with the federal act, or that a guaranty was signed by and contains the name and address of the person residing in this state from whom the former person received in good faith the drug or device, to the effect that the drug or device is not adulterated or misbranded within the meaning of this part. The guaranty does not protect the seller if the product is adulterated or misbranded under this part and the board has previously given written notice to the seller of that fact. The board shall not serve notice on the seller until the board has notified the manufacturer or wholesale distributor of the findings of the state analyst with reference to the product. The notice to the manufacturer or wholesale distributor shall be written and shall be mailed at least 10 days before a notice is given to a seller under this section.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17766 Additional conduct constituting misdemeanor.

Sec. 17766.

Except as provided in sections 17766d, 17780, and 21418, a person that does any of the following is guilty of a misdemeanor:

(a) Obtains or attempts to obtain a prescription drug by giving a false name to a pharmacist or other authorized seller, prescriber, or dispenser.

(b) Obtains or attempts to obtain a prescription drug by falsely representing that he or she is a lawful prescriber, dispenser, or licensee, or acting on behalf of a lawful prescriber, dispenser, or licensee.

(c) Falsely makes, utters, publishes, passes, alters, or forges a prescription.

(d) Knowingly possesses a false, forged, or altered prescription.

(e) Knowingly attempts to obtain, obtains, or possesses a drug by means of a prescription for other than a legitimate therapeutic purpose, or as a result of a false, forged, or altered prescription.

(f) Possesses or controls for the purpose of resale, or sells, offers to sell, dispenses, or gives away, a drug, pharmaceutical preparation, or chemical that has been dispensed on prescription and has left the control of a pharmacist.

(g) Possesses or controls for the purpose of resale, or sells, offers to sell, dispenses, or gives away, a drug, pharmaceutical preparation, or chemical that has been damaged by heat, smoke, fire, water, or other cause and is unfit for human or animal use.

(h) Prepares or permits the preparation of a prescription drug, except as delegated by a pharmacist.

(i) Sells a drug in bulk or in an open package at auction, unless the sale has been approved in accordance with rules of the board.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1990, Act 30, Eff. Mar. 28, 1991 ;-- Am. 2004, Act 329, Imd. Eff. Sept. 23, 2004 ;-- Am. 2006, Act 416, Imd. Eff. Sept. 29, 2006 ;-- Am. 2018, Act 396, Eff. Mar. 19, 2019
Popular Name: Act 368

333.17766a Repealed. 2001, Act 236, Imd. Eff. Jan. 3, 2002.

Compiler's Notes: The repealed section pertained to use, possession, or delivery of androgenic anabolic steroid.
Popular Name: Act 368

333.17766b Repealed. 2001, Act 231, Eff. Jan. 6, 2003.

Compiler's Notes: The repealed section pertained to recording prescription for androgenic anabolic steriod, methyltestosterone, testosterone, or fluoxymensterone.
Popular Name: Act 368

333.17766c Purchase or possession of ephedrine or pseudoephedrine or mixture prohibited; violation; penalty; exceptions.

Sec. 17766c.

(1) A person shall not do any of the following:
(a) Purchase more than 3.6 grams of ephedrine or pseudoephedrine alone or in a mixture within a single calendar day.
(b) Purchase more than 9 grams of ephedrine or pseudoephedrine alone or in a mixture within a 30-day period.
(c) Possess more than 12 grams of ephedrine or pseudoephedrine alone or in a mixture.
(d) Purchase or possess any amount of ephedrine or pseudoephedrine knowing or having reason to know that it is to be used to manufacture methamphetamine.
(2) A person who violates this section is guilty of a crime as follows:
(a) A person who violates subsection (1)(a) or (b) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.
(b) A person who violates subsection (1)(c) is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.
(c) A person who violates subsection (1)(d) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $5,000.00, or both. This subdivision does not prohibit the person from being charged with, convicted of, and sentenced for any other violation of law arising out of the violation of subsection (1)(d).
(3) This section does not apply to any of the following:
(a) A person who possesses ephedrine or pseudoephedrine pursuant to a license issued by this state or the United States to manufacture, deliver, dispense, possess with intent to manufacture or deliver, or possess a controlled substance, prescription drug, or other drug.
(b) An individual who possesses ephedrine or pseudoephedrine pursuant to a prescription.
(c) A person who possesses ephedrine or pseudoephedrine for retail sale pursuant to a license issued under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78.
(d) A person who possesses ephedrine or pseudoephedrine in the course of his or her business of selling or transporting ephedrine or pseudoephedrine to a person described in subdivision (a) or (c).
(e) A person who, in the course of his or her business, stores ephedrine or pseudoephedrine for sale or distribution to a person described in subdivision (a), (c), or (d).
(f) Any product that the state board of pharmacy, upon application of a manufacturer, exempts from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.
(g) Possession of any pediatric product primarily intended for administration to children under 12 years of age according to label instructions.

History: Add. 1994, Act 38, Eff. June 1, 1994 ;-- Am. 2003, Act 308, Eff. Apr. 1, 2004 ;-- Am. 2011, Act 86, Imd. Eff. July 15, 2011 ;-- Am. 2014, Act 216, Eff. Jan. 1, 2015
Popular Name: Act 368

333.17766d Pharmacy operated by department of corrections or under contract with county jail; resale or redistribution of prescription drug; definitions.

Sec. 17766d.

(1) Notwithstanding section 17766(f), a pharmacy operated by the department of corrections or under contract

with the department of corrections or a county jail may accept for the purpose of resale or redispensing a prescription drug that has been dispensed and has left the control of the pharmacist if the prescription drug is being returned by a state correctional facility or a county jail that has a licensed physician's assistant, a registered professional nurse, or a licensed practical nurse, who is responsible for the security, handling, and administration of prescription drugs within that state correctional facility or county jail and if all of the following are met:

(a) The pharmacist is satisfied that the conditions under which the prescription drug has been delivered, stored, and handled before and during its return were such as to prevent damage, deterioration, or contamination that would adversely affect the identity, strength, quality, purity, stability, integrity, or effectiveness of the prescription drug.

(b) The pharmacist is satisfied that the prescription drug did not leave the control of the registered professional nurse or licensed practical nurse responsible for the security, handling, and administration of that prescription drug and that the prescription drug did not come into the physical possession of the individual for whom it was prescribed.

(c) The pharmacist is satisfied that the labeling and packaging of the prescription drug are accurate, have not been altered, defaced, or tampered with, and include the identity, strength, expiration date, and lot number of the prescription drug.

(d) The prescription drug was dispensed in a unit dose package or unit of issue package.

(2) A pharmacy operated by the department of corrections or under contract with the department of corrections or a county jail shall not accept for return prescription drugs as provided under this section until the pharmacist in charge develops a written set of protocols for accepting, returning to stock, repackaging, labeling, and redispensing prescription drugs. The written protocols shall be maintained on the premises and shall be readily accessible to each pharmacist on duty. The written protocols shall include, at a minimum, each of the following:

(a) Methods to ensure that damage, deterioration, or contamination has not occurred during the delivery, handling, storage, and return of the prescription drugs which would adversely affect the identity, strength, quality, purity, stability, integrity, or effectiveness of those prescription drugs or otherwise render those drugs unfit for distribution.

(b) Methods for accepting, returning to stock, repackaging, labeling, and redispensing the prescription drugs returned under this section.

(c) A uniform system of recording and tracking prescription drugs that are returned to stock, repackaged, labeled, and redistributed under this section.

(3) If the integrity of a prescription drug and its package is maintained, a prescription drug returned under this section shall be returned to stock and redistributed as follows:

(a) A prescription drug that was originally dispensed in the manufacturer's unit dose package or unit of issue package and is returned in that same package may be returned to stock, repackaged, and redispensed as needed.

(b) A prescription drug that is repackaged into a unit dose package or a unit of issue package by the pharmacy, dispensed, and returned to that pharmacy in that unit dose package or unit of issue package may be returned to stock, but it shall not be repackaged. A unit dose package or unit of issue package prepared by the pharmacist and returned to stock shall only be redispensed in that same unit dose package or unit of issue package and shall only be redispensed once. A pharmacist shall not add unit dose package drugs to a partially used unit of issue package.

(4) This section does not apply to any of the following:

(a) A controlled substance.

(b) A prescription drug that is dispensed as part of a customized patient medication package.

(c) A prescription drug that is not dispensed as a unit dose package or a unit of issue package.

(d) A prescription drug that is not properly labeled with the identity, strength, lot number, and expiration date.

(e) A prescription drug that is dispensed in a medical institution and returned to stock for redistribution in accordance with R 338.486 of the Michigan administrative code.

(5) As used in this section:

(a) "County jail" means a facility operated by a county for the physical detention and correction of persons charged with, or convicted of, criminal offenses or ordinance violations or persons found guilty of civil or criminal contempt.

(b) "Customized patient medication package" means a package that is prepared by a pharmacist for a specific patient that contains 2 or more prescribed solid oral dosage forms.

(c) "Repackage" means a process by which the pharmacy prepares a unit dose package, unit of issue package, or customized patient medication package for immediate dispensing pursuant to a current prescription.

(d) "State correctional facility" means a facility or institution that houses a prisoner population under the jurisdiction of the department of corrections.

(e) "Unit dose package" means a package that contains a single dose drug with the name, strength, control number, and expiration date of that drug on the label.

(f) "Unit of issue package" means a package that provides multiple doses of the same drug, but each drug is individually separated and includes the name, lot number, and expiration date.

History: Add. 2004, Act 329, Imd. Eff. Sept. 23, 2004
Popular Name: Act 368

333.17766e Sale of ephedrine or pseudoephedrine; requirements of retail distributor; exceptions; violation; fine; report.

Sec. 17766e.

(1) Except as otherwise provided under this section, a person who possesses ephedrine or pseudoephedrine for retail sale pursuant to a license issued under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, shall maintain all products that contain any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine in accordance with 1 of the following:

(a) Behind a counter where the public is not permitted.

(b) Within a locked case so that a customer wanting access to the product must ask a store employee for assistance.

(2) A person who sells a product described in subsection (1) shall do each of the following:

(a) Require the purchaser of a product described under subsection (1) to produce a valid government-issued photo identification that includes the individual's name and date of birth.

(b) Maintain a log or some type of record detailing the sale of a product described under subsection (1), including the date of the sale and the time of purchase, the name, address, and date of birth of the buyer, the amount and description of the product sold, and a description of the identification used to make the purchase, such as the state in which a driver license used for identification was issued and number of that license. The seller shall also require the purchaser to sign the log at the time of sale. Information entered into the national precursor log exchange (NPLEX) satisfies the requirement to maintain a log or some type of record detailing the sale under this subdivision. The log or other means of recording the sale as required under this subdivision shall be maintained for a minimum of 6 months and made available to only a law enforcement agency upon request. The log or other means of recording the sale is not a public record and is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. A person shall not sell or provide a copy of the log or other means of recording the sale to another for the purpose of surveys, marketing, or solicitations.

(3) This section does not apply to the following:

(a) A pediatric product primarily intended for administration to children under 12 years of age according to label instructions.

(b) A product containing pseudoephedrine that is in a liquid form if pseudoephedrine is not the only active ingredient.

(c) A product that the state board of pharmacy, upon application of a manufacturer or certification by the United States drug enforcement administration as inconvertible, exempts from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

(d) A product that is dispensed pursuant to a prescription.

(4) A person who violates this section is responsible for a state civil infraction as provided under chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, and may be ordered to pay a civil fine of not more than $500.00 for each violation.

(5) By December 15, 2006, the department of state police shall submit a written report to the legislature regarding the impact and effectiveness of the amendatory act that added this section and section 17766f, including, but not limited to, the number of clandestine methamphetamine lab incidents before and after this legislation.

History: Add. 2005, Act 87, Eff. Dec. 15, 2005 ;-- Am. 2011, Act 85, Imd. Eff. July 15, 2011 ;-- Am. 2011, Act 86, Imd. Eff. July 15, 2011
Popular Name: Act 368

333.17766f Possession of products containing ephedrine or pseudoephedrine; prohibited conduct; exceptions; violation; penalty; affirmative defense; rebuttal; conflict of local requirements with section.

Sec. 17766f.

(1) A person who possesses products that contain any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine for retail sale under a license issued under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, shall not knowingly do any of the following:

(a) Sell any product described under this subsection to an individual under 18 years of age.

(b) Sell more than 3.6 grams of ephedrine or pseudoephedrine alone or in a mixture to any individual on any single calendar day.

(c) Sell more than 9 grams of ephedrine or pseudoephedrine alone or in a mixture to any individual within a 30-day period.

(d) Sell in a single over-the-counter sale more than 2 personal convenience packages containing 2 tablets or capsules each of any product described under this subsection to any individual.

(e) Sell any product described under this subsection to an individual during the period in which a stop sale alert is generated for that individual based upon criminal history record information provided under the methamphetamine abuse reporting act. The NPLEx system shall contain an override function that may be used by a dispenser of ephedrine or pseudoephedrine who has a reasonable fear of imminent bodily harm if the dispenser does not complete a sale. Each instance in which the override function is utilized shall be logged by the system.

(2) This section does not apply to the following:

(a) A pediatric product primarily intended for administration to children under 12 years of age according to label instructions.

(b) A product containing pseudoephedrine that is in a liquid form if pseudoephedrine is not the only active ingredient.

(c) A product that the state board of pharmacy, upon application of a manufacturer or certification by the United States drug enforcement administration as inconvertible, exempts from this section because the product has been formulated in such a way as to effectively prevent the conversion of the active ingredient into methamphetamine.

(d) A product that is dispensed pursuant to a prescription.

(3) A person who violates this section is responsible for a state civil infraction as provided under chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, and may be ordered to pay a civil fine of not more than $500.00 for each violation.

(4) It is an affirmative defense to a citation issued under subsection (1)(a) that the defendant had in force at the time of the citation and continues to have in force a written policy for employees to prevent the sale of products that contain any compound, mixture, or preparation containing any detectable quantity of ephedrine or pseudoephedrine, a salt or optical isomer of ephedrine or pseudoephedrine, or a salt of an optical isomer of ephedrine or pseudoephedrine to persons under 18 years of age and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this subsection shall file and serve notice of the defense, in writing, upon the court and the prosecuting attorney. The notice shall be served not less than 14 days before the hearing date.

(5) A prosecuting attorney who proposes to offer testimony to rebut the affirmative defense described in subsection (4) shall file and serve a notice of rebuttal, in writing, upon the court and the defendant. The notice shall be served not less than 7 days before the hearing date and shall contain the name and address of each rebuttal witness.

(6) Notwithstanding any other provision of law, a city, township, village, county, other local unit of government, or political subdivision of this state shall not impose any new requirement or prohibition pertaining to the sale of a product described under subsection (1) that is contrary to, or in any way conflicting with, this section. This subsection does not invalidate or otherwise restrict a requirement or prohibition described in this subsection existing on December 15, 2005.

History: Add. 2005, Act 86, Imd. Eff. July 20, 2005 ;-- Am. 2011, Act 86, Imd. Eff. July 15, 2011 ;-- Am. 2014, Act 275, Eff. Jan. 1, 2015
Popular Name: Act 368

333.17766g Sale, trade, or purchase of dextromethorphan to minor; prohibition; exception for valid prescription; preemption; violation; civil infraction and fine.

Sec. 17766g.

(1) Except as otherwise provided in subsection (4), a person shall not knowingly or willfully sell or trade a finished drug product containing any quantity of dextromethorphan to a minor.

(2) A person making a retail sale of a finished drug product containing any quantity of dextromethorphan must

require and obtain proof of age from the purchaser before completing the sale, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be at least 25 years of age.

(3) Except as otherwise provided in subsection (4), a minor shall not purchase a finished drug product containing any quantity of dextromethorphan.

(4) This section does not apply to a medication containing dextromethorphan that is sold pursuant to a valid prescription.

(5) This section preempts any county, city, village, or township ordinance or resolution regulating the sale, distribution, receipt, or possession of dextromethorphan. A county, city, village, or township shall not enact, adopt, maintain, or enforce an ordinance or resolution that imposes conflicting, different, or additional standards or requirements than those provided in this section on the sale, distribution, receipt, or possession of dextromethorphan.

(6) A person that violates subsection (1) is responsible for a state civil infraction as provided under chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, and may be ordered to pay a civil fine of not more than $100.00 for each violation.

(7) An individual who violates subsection (3) is responsible for a state civil infraction as provided under chapter 88 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8801 to 600.8835, and may be ordered to pay a civil fine of not more than $50.00 for each violation.

(8) As used in this section:

(a) "Dextromethorphan" means the dextrorotatory isomer of 3-methoxy-N-methyl-morphinan and its salts.

(b) "Finished drug product" means that term as defined in 21 CFR 207.1.

(c) "Proof of age" means a valid government-issued photo identification that includes the purchaser's name and date of birth, including, but not limited to, a military identification card, passport, or driver license.

History: Add. 2019, Act 123, Eff. July 1, 2020
Popular Name: Act 368

333.17767 Rules and determinations as to licensing.

Sec. 17767.

The board may promulgate rules and make determinations necessary or appropriate to the licensing of pharmacists, drugs, dispensers, manufacturers, wholesale distributors, and wholesale distributor-brokers under this part.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2020, Act 142, Imd. Eff. July 14, 2020
Popular Name: Act 368
Admin Rule: R 338.471 et seq. and R 338.3971 et seq. of the Michigan Administrative Code.

333.17768 Grounds for fine, reprimand, or probation, or for denying, limiting, suspending, or revoking license or ordering restitution or community service; applicability of subsection (2)(b).

Sec. 17768.

(1) In a manner consistent with part 161, the disciplinary subcommittee may fine, reprimand, or place on probation a person licensed under this part, may deny, limit, suspend, or revoke a person's license, or may order restitution or community service for a violation of this part or rules promulgated under this part.

(2) In addition to the grounds set forth in subsection (1), and in a manner consistent with part 161, the board may fine, reprimand, or place on probation a person licensed under this part, may deny, limit, suspend, or revoke a license issued under this part, or may order restitution or community service if the board finds that any of the following apply to an applicant; a partner, officer, or member of the board of directors of a pharmacy,

manufacturer, wholesale distributor, or wholesale distributor-broker licensed under this part; a stockholder of a pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker that is a privately held corporation licensed under this part; or a facility manager for a manufacturer, wholesale distributor, or wholesale distributor-broker designated under section 17748(2):

(a) The applicant or other person described in this subsection lacks good moral character.

(b) Subject to subsection (3), the applicant or other person described in this subsection has been convicted of a misdemeanor or a felony under a state or federal law relating to a controlled substance or the practice of pharmacy.

(c) The applicant or other person described in this subsection has furnished false or fraudulent material information or has knowingly omitted material information in an application filed under this part.

(d) The applicant or other person described in this subsection has maintained a financial interest in a pharmacy, manufacturer, wholesale distributor, or wholesale distributor-broker that has been denied a license or federal registration, has had its license or federal registration limited, suspended, or revoked, or has been subject to any other criminal, civil, or administrative penalty.

(e) The applicant or other person described in this subsection is not in compliance with article 7 or article 8 or the rules promulgated under article 7 or article 8.

(f) The applicant or other person described in this subsection has violated section 17748.

(3) Except for a conviction for a misdemeanor under section 7404(2)(d) or a local ordinance that is substantially similar to section 7404(2)(d), the reference to a misdemeanor in subsection (2)(b) applies only to a conviction for a misdemeanor that is directly related to the manufacture, delivery, possession, possession with intent to manufacture or deliver, use, distribution, prescription, or dispensing of a controlled substance. Subsection (2)(b) does not apply to a conviction for a misdemeanor based on an unintentional error or omission involving a clerical or record-keeping function.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1987, Act 250, Imd. Eff. Dec. 28, 1987 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013 ;-- Am. 2014, Act 413, Eff. Mar. 30, 2015 ;-- Am. 2020, Act 4, Eff. Apr. 26, 2020 ;-- Am. 2020, Act 142, Imd. Eff. July 14, 2020
Popular Name: Act 368

333.17770 Exceptions.

Sec. 17770.

Except as to the labeling of poisonous or deleterious drugs and to adulterating, misbranding, and substituting, this part shall not apply:

(a) To the sale of paris green, white hellebore, and other insecticides.

(b) To the sale of any substance for use in the arts.

(c) To the retailing of non-narcotic, or nonprescription medicine or drug which is prepackaged, fully prepared by the manufacturer or producer for use by the consumer, and labeled in accordance with the requirements of the state and federal act.

(d) To the sale by merchants of ammonia, sulphur, any nonpoisonous flavoring essences or extracts, salt, bicarbonate of soda, or other prepackaged common household remedies or any food or food product which may also be found in any of the official compendiums and is not also considered as a poisonous, deleterious, or habit forming drug.

(e) To surgical or dental instruments and accessories, hearing aids, gases, oxygen tents, gas pressure reducing regulators, x-ray apparatus, therapeutic lamps, splints, and stethoscopes, and their component parts and accessories, or to equipment, instruments, apparatus, and contrivances used to render the articles effective in medical, surgical, or dental treatment; or to articles intended for external use.

(f) To articles or substances intended for generally recognized mechanical, agricultural, horticultural, or industrial consumption or use or photographic chemicals for home use.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.17775 "Program for utilization of unused prescription drugs"; definitions; unused prescription drug repository and distribution program; rules; standards and procedures.

Sec. 17775.

(1) This section and section 17776 shall be known and may be referred to as the "program for utilization of unused prescription drugs".

(2) As used in this section and section 17776:

(a) "Board" means the Michigan board of pharmacy created under section 17721.

(b) "Cancer drug" means that term as defined in section 17780.

(c) "Charitable clinic" means a charitable nonprofit corporation or facility that meets all of the following requirements:

(i) Is organized as a not-for-profit corporation pursuant to the nonprofit corporation act, 1982 PA 162, MCL 450.2101 to 450.3192.

(ii) Holds a valid exemption from federal income taxation issued under section 501(a) of the internal revenue code of 1986, 26 USC 501.

(iii) Is listed as an exempt organization under section 501(c) of the internal revenue code of 1986, 26 USC 501.

(iv) Is organized under or operated as a part of a health facility or agency licensed under article 17.

(v) Provides on an outpatient basis for a period of less than 24 consecutive hours to persons not residing or confined at the facility advice, counseling, diagnosis, treatment, surgery, care, or services relating to the preservation or maintenance of health.

(vi) Has a licensed pharmacy.

(d) "Eligible facility" means a medical institution as that term is defined in R 338.486 of the Michigan administrative code.

(e) "Eligible participant" means an individual who meets all of the following requirements:

(i) Is a resident of this state.

(ii) Is eligible to receive medicaid or medicare or has no health insurance and otherwise lacks reasonable means to purchase prescription drugs, as prescribed in rules promulgated under this section.

(f) "Health professional" means any of the following individuals licensed and authorized to prescribe and dispense drugs or to provide medical, dental, or other health-related diagnoses, care, or treatment within the scope of his or her professional license:

(i) A physician licensed to practice medicine or osteopathic medicine and surgery under part 170 or 175.

(ii) A physician's assistant licensed under part 170, 175, or 180.

(iii) A dentist licensed under part 166.

(iv) An optometrist licensed under part 174.

(v) A pharmacist licensed under this part.

(vi) A podiatrist licensed under part 180.

(g) "Program" means the statewide unused prescription drug repository and distribution program known as the program for utilization of unused prescription drugs that is established under this section.

(3) The board shall establish, implement, and administer a statewide unused prescription drug repository and distribution program consistent with public health and safety through which unused or donated prescription drugs, other than controlled substances, may be transferred from an eligible facility or manufacturer to a pharmacy or a charitable clinic that elects to participate in the program. The program is created to dispense unused or donated prescription drugs, other than controlled substances, to eligible participants and to provide for the destruction and disposal of prescription drugs or other medications that are ineligible for dispensing under the program.

(4) Participation in the program by an eligible facility, manufacturer, pharmacy, or charitable clinic is voluntary. Nothing in this section or section 17776 requires any eligible facility, manufacturer, pharmacy, or charitable clinic to participate in the program.

(5) Pharmacies, health professionals, and charitable clinics that participate in the program shall use the following criteria in accepting unused or donated prescription drugs from eligible facilities or manufacturers for use in the program:

(a) Only prescription drugs in their original sealed, tamper-evident, and unopened unit dose packaging may be accepted for dispensing. However, prescription drugs packaged in single-unit dose packaging may be accepted for dispensing even if the outside packaging is open as long as the single-unit dose packaging is unopened.

(b) The following shall not be accepted for dispensing:

(i) Expired prescription drugs.

(ii) Controlled substances as defined in article 7 or article 8 or by federal law.

(iii) Drugs that have been held outside of a health professional's control where sanitation and security cannot be assured.

(iv) Drugs that can only be dispensed to a patient registered with the drug's manufacturer under federal food and drug administration requirements.

(c) A prescription drug shall not be accepted for dispensing if the person accepting the drug has reason to believe that the drug is adulterated.

(d) Subject to the limitations prescribed in this subsection, unused or donated prescription drugs dispensed for purposes of a medical assistance program or drug product donation program may be accepted for dispensing under the program.

(e) Any additional criteria established in rules promulgated under this section.

(6) A pharmacy or charitable clinic that meets the eligibility requirements for participation in the program and any rules promulgated under this section may do any of the following:

(a) Dispense prescription drugs accepted under the program to eligible participants.

(b) If established by rule under this section, charge eligible participants who receive prescription drugs under the program a handling fee for the service.

(7) A pharmacy or charitable clinic that participates in the program and accepts prescription drugs for the program shall do all of the following:

(a) Comply with all applicable federal laws and regulations and state laws and rules related to the storage and distribution of harmful drugs.

(b) Inspect all accepted prescription drugs before dispensing the prescription drugs to determine that the drugs are not adulterated.

(c) Dispense prescription drugs only pursuant to a prescription issued by a health professional.

(8) A pharmacy, health professional, or charitable clinic that accepts prescription drugs under the program shall not resell the prescription drugs. Receipt of a fee from an eligible participant, if established in rules promulgated under this section, or reimbursement from a governmental agency to a charitable clinic does not constitute resale of prescription drugs under this subsection.

(9) For purposes of the lawful donation, acceptance, or dispensing of prescription drugs under the program, the following persons that are in compliance with the program, this section and section 17776, and any rules promulgated under this section and in the absence of bad faith or gross negligence are not subject to criminal or civil liability for injury other than death, or loss to person or property, or professional disciplinary action:

(a) The board.

(b) The department.

(c) An eligible facility or manufacturer that donates prescription drugs to the program.

(d) A manufacturer or its representative that directly donates prescription drugs in professional samples to a charitable clinic under the program.

(e) A pharmacy, charitable clinic, or health professional that accepts or dispenses prescription drugs for the program.

(f) A pharmacy or charitable clinic that employs a health professional who accepts prescription drugs for the program and who may legally dispense prescription drugs under this part.

(10) A manufacturer is not, in the absence of bad faith, subject to criminal prosecution or liability in tort or other civil action for injury, death, or loss to person or property for matters related to the donation, acceptance, or dispensing of a prescription drug manufactured by the manufacturer that is donated by any person under the program, including, but not limited to, liability for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug.

(11) Subject to subsection (12), the department, in consultation with the board, shall promulgate rules under the administrative procedures act of 1969 and establish procedures necessary to establish, implement, and administer the program. The board shall provide technical assistance to eligible facilities, manufacturers, pharmacies, and charitable clinics that participate in the program.

(12) The department, in consultation with the board, shall promulgate emergency rules under the administrative procedures act of 1969 on or before September 28, 2013 to establish, implement, and administer the program. The department, in consultation with the board, shall promulgate permanent rules under the administrative procedures act of 1969 as soon as practical after emergency rules have been promulgated under this subsection. The department and the board shall include all of the following in rules promulgated under this section:

(a) Eligibility criteria for pharmacies and charitable clinics authorized to accept and dispense prescription drugs for the program.

(b) Eligibility criteria for eligible participants.

(c) A list of prescription drugs that are not eligible for acceptance and dispensing under the program.

(d) Standards and procedures for transfer, transportation, acceptance, safe storage, security, and dispensing of prescription drugs.

(e) A process for seeking input from the department of human services and the department of community health in establishing provisions that affect eligible facilities.

(f) A process for seeking input from the department of human services and the department of community health in establishing provisions that affect mental health and substance abuse clients.

(g) Standards and procedures for inspecting accepted prescription drugs to ensure that the prescription drugs meet the requirements of the program and to ensure that, in the professional judgment of the pharmacist, the

prescription drugs meet all federal and state standards for product integrity.

(h) Procedures for the destruction and environmentally sound disposal of prescription drugs or other medications that are accepted and that are ineligible for dispensing under the program.

(i) Procedures for verifying whether the charitable clinic, pharmacy, pharmacist, or other health professionals participating in the program are licensed and in good standing with the applicable licensing board.

(j) Standards for acceptance of unused or donated prescription drugs from eligible facilities.

(k) Standards for the acceptance by a pharmacy, health professional, or charitable clinic that participates in the program from any person of a prescription drug or any other medication that is ineligible for dispensing under the program for destruction and disposal.

(l) Any other standards and procedures the department, in consultation with the board, considers appropriate or necessary to establish, implement, and administer the program.

(13) Pursuant to the rules promulgated and standards and procedures established for the program under this section, a resident of an eligible facility or the representative or guardian of a resident of an eligible facility may donate unused prescription drugs for dispensing to eligible participants under the program.

(14) Pursuant to rules promulgated and standards and procedures established for the program under this section, a person may deliver to a pharmacy, health professional, or charitable clinic that participates in the program a prescription drug or any other medication that is ineligible for dispensing under the program for destruction and disposal.

(15) This section and section 17776 do not impair or supersede the provisions regarding the cancer drug repository program established in section 17780. If any provision of this section or section 17776 conflicts with a provision of section 17780 with regard to a cancer drug, section 17780 controls.

History: Add. 2012, Act 383, Eff. Mar. 28, 2013 ;-- Am. 2013, Act 268, Imd. Eff. Dec. 30, 2013

333.17776 Destruction and disposal of certain drugs and medications.

Sec. 17776.

(1) Subject to all applicable federal laws and regulations and state laws and rules, a pharmacy, health professional, or charitable clinic that participates in the program shall accept from any person a prescription drug or any other medication that is ineligible for distribution under the program for destruction and disposal.

(2) A pharmacy, health professional, or charitable clinic that accepts prescription drugs and other medications under subsection (1) that are ineligible for distribution under the program shall destroy and dispose of those drugs and medications subject to rules promulgated under section 17775.

History: Add. 2012, Act 384, Eff. Mar. 28, 2013

333.17780 Cancer drug repository program.

Sec. 17780.

(1) The board shall establish and maintain a cancer drug repository program that would allow a person to donate a cancer drug or supply for use by an individual who meets the eligibility criteria specified under subsection (7). The board shall establish program guidelines, policies, and procedures addressing the cancer drug repository program. Under the cancer drug repository program, donations may be made on the premises of a health facility or pharmacy that elects to participate in the program and meets the requirements specified under subsection (2).

(2) Any health facility or pharmacy that is licensed and in compliance with all federal and state laws, rules, and regulations is eligible to participate in the cancer drug repository program. Participation in the cancer drug repository program is voluntary and a pharmacy or health facility may withdraw from participation in the cancer drug repository program at any time upon notification to the board. A notice to withdraw from participation may be given by telephone or regular mail. A pharmacy or health facility may choose to fully participate in the cancer drug repository program by accepting, storing, and dispensing or administering donated drugs and supplies or the pharmacy or health facility may limit its participation to only accepting and storing donated drugs and supplies. If a

pharmacy or health facility chooses to limit its participation, the pharmacy or health facility shall distribute any donated drugs to a fully participating cancer drug repository in accordance with subsection (8). A pharmacy or health facility that elects to participate in the cancer drug repository program shall submit the following information to the board in a form provided by the board that includes, at a minimum, each of the following:

(a) The name, street address, and telephone number of the pharmacy or health facility.

(b) The name and telephone number of a pharmacist who is employed by or under contract with the pharmacy or health facility, or other contact person who is familiar with the pharmacy's or health facility's participation in the cancer drug repository program.

(c) A statement indicating that the pharmacy or health facility is licensed in this state and in compliance with all federal and state laws, rules, and regulations and the chosen level of participation in the cancer drug repository program.

(3) An individual who is at least 18 years of age may donate legally obtained cancer drugs or supplies to a cancer drug repository. If the donated drugs have not been previously dispensed, a pharmacy, health facility, manufacturer, or wholesale distributor may also donate cancer drugs or supplies to a cancer drug repository. Donated drugs or supplies are acceptable for donation if they are determined to be eligible by a pharmacist who is employed by or under contract with a cancer drug repository as follows:

(a) A cancer drug is eligible for donation under the cancer drug repository program only if all of the following requirements are met:

(i) The donation is accompanied by a cancer drug repository donor form that is provided by the board and states that to the best of the donor's knowledge the donated drug has been properly stored and that the drug has never been opened, used, tampered with, adulterated, or misbranded. The board shall make the cancer drug repository donor form available on the board's website. The form shall be signed by the person making the donation or that person's authorized representative.

(ii) The drug's expiration date is at least 6 months later than the date the drug was donated.

(iii) The drug is in its original, unopened, tamper-evident unit dose packaging that includes the drug's lot number and expiration date. Single unit dose drugs may be accepted if the single unit dose packaging is unopened.

(iv) The drug is not adulterated or misbranded.

(b) Cancer supplies are eligible for donation under the cancer drug repository program only if all of the following requirements are met:

(i) The supplies are not adulterated or misbranded.

(ii) The supplies are in their original, unopened, sealed package.

(iii) The donation is accompanied by a cancer drug repository donor form that is provided by the board and states that to the best of the donor's knowledge the donated supply has been properly stored and that the supply has never been opened, used, tampered with, adulterated, or misbranded. The board shall make the cancer drug repository donor form available on the board's website. The form shall be signed by the person making the donation or that person's authorized representative.

(4) Controlled substances are not eligible for donation or acceptance under the cancer drug repository program. Cancer drugs and supplies that do not meet the criteria described under subsection (3) are not eligible for donation or acceptance under the cancer drug repository program. Cancer drugs and supplies may be donated on the premises of a cancer drug repository to a pharmacist designated by the repository. A drop box shall not be used to deliver or accept donations. Cancer drugs and supplies donated under the cancer drug repository program shall be stored in a secure storage area under environmental conditions appropriate for the drugs or supplies being stored. Donated drugs and supplies may not be stored with nondonated inventory.

(5) Cancer drugs and supplies that are donated under the cancer drug repository program shall be dispensed by a pharmacist pursuant to a prescription by a prescriber or may be dispensed or administered by a dispensing prescriber. The cancer drugs and supplies shall be visually inspected by the pharmacist or dispensing prescriber before being dispensed or administered for adulteration, misbranding, and date of expiration. Cancer drugs or supplies that have expired or appear upon visual inspection to be adulterated, misbranded, or tampered with in any way may not be dispensed or administered.

(6) Before a cancer drug or supply may be dispensed or administered to an individual, the individual must provide verification that he or she has a current diagnosis of cancer, provide proof of his or her insurance, if any, and sign a cancer drug repository recipient form provided by the board acknowledging that the individual understands the information stated on the form. The form shall be made available to the public on the board's website. The form shall include, at a minimum, the following information:

(a) That the drug or supply being dispensed or administered has been donated and may have been previously dispensed.

(b) That a visual inspection has been conducted by the pharmacist or dispensing prescriber to ensure that the drug has not expired, has not been adulterated or misbranded, and is in its original, unopened packaging.

(c) That the pharmacist, the dispensing or administering prescriber, the cancer drug repository, the board, and any other participant of the cancer drug repository program cannot guarantee the safety of the drug or supply being dispensed or administered and that the pharmacist or prescriber has determined that the drug or supply is safe to

dispense or administer based on the accuracy of the donor's form submitted with the donated drug or supply and the visual inspection required to be performed by the pharmacist or prescriber before dispensing or administering.

(7) Any resident of this state who is diagnosed with cancer is eligible to receive drugs or supplies under the cancer drug repository program. Cancer drugs and supplies donated under the cancer drug repository program shall not be resold and shall only be dispensed or administered to residents of this state who are diagnosed with cancer. A pharmacist who dispenses those drugs and supplies donated under the cancer drug repository program shall not submit a claim or otherwise seek reimbursement from any public or private third party payer for drugs or supplies dispensed to any eligible individual in accordance with the program, nor shall a public or private third party payer be required to provide reimbursement for donated drugs or supplies dispensed by a pharmacist to an eligible individual in accordance with the program. Cancer drugs and supplies dispensed under the cancer drug repository program shall be dispensed in the following order of priority:

(a) Individuals who are uninsured or do not have insurance coverage for those cancer drugs or supplies.

(b) Individuals who are enrolled in medicaid, medicare, or any other public assistance health care program.

(c) All other individuals who are residents of this state and diagnosed with cancer.

(8) A cancer drug repository may charge the individual receiving a drug or supply a handling fee of not more than 250% of the medicaid dispensing fee or $5.00, whichever is less, for each cancer drug or supply dispensed or administered. Cancer drug repositories may distribute drugs and supplies donated under the cancer drug repository program to other repositories if requested by a participating repository. A cancer drug repository that has elected not to dispense donated drugs or supplies shall distribute any donated drugs and supplies to a participating repository upon request of the repository. If a cancer drug repository distributes drugs or supplies to another participating repository, the repository shall complete a cancer drug repository donor form provided by the board. The completed form and copy of the donor form that was completed by the original donor under subsection (3) shall be provided to the fully participating cancer drug repository at the time of distribution.

(9) Cancer drug repository donor and recipient forms shall be maintained for at least 5 years. A record of destruction of donated drugs and supplies that are not dispensed under subsection (7) shall be maintained by the dispensing repository for at least 5 years. For each drug or supply destroyed, the record shall include the following information:

(a) The date of destruction.

(b) The name, strength, and quantity of the cancer drug destroyed.

(c) The name of the person or firm that destroyed the drug.

(d) The source of the drugs or supplies destroyed.

(10) A manufacturer is not subject to criminal liability or liability in tort or other civil action for injury, death, or loss to a person or to property for any of the following causes of action:

(a) The intentional or unintentional adulteration or misbranding of the drug or supply by a party not under the control of the manufacturer.

(b) The failure of a party not under the control of the manufacturer to transfer or communicate product or consumer information or the expiration date of the donated drug or supply.

(c) Claims for payment to government or private payers.

(11) A health facility or pharmacy participating in the cancer drug repository program, a pharmacist dispensing a drug or supply pursuant to the program, a prescriber dispensing or administering a drug or supply pursuant to the program, or a donor of a cancer drug or supply is immune from civil liability for an act or omission that causes injury to or the death of an individual to whom the cancer drug or supply is dispensed and no disciplinary action shall be taken against a pharmacist or prescriber as long as the drug or supply is donated, accepted, distributed, and dispensed according to the requirements of this section. This immunity does not apply if the act or omission involves reckless, wanton, or intentional misconduct, or malpractice unrelated to the quality of the cancer drug or supply.

(12) As used in this section:

(a) "Cancer drug" means a prescription drug that is used to treat either of the following:

(i) Cancer or the side effects of cancer.

(ii) The side effects of any prescription drug that is used to treat cancer or the side effects of cancer.

(b) "Cancer drug repository" means a health facility or pharmacy that has notified the board of its election to participate in the cancer drug repository program.

(c) "Cancer supply" or "supplies" means prescription and nonprescription cancer supplies needed to administer a cancer drug.

(d) "Distribute" means to deliver, other than by administering or dispensing.

(e) "Donor" means an individual and not a manufacturer or wholesale distributor who donates a cancer drug or supply according to the requirements of the cancer drug repository program.

(f) "Health facility" means a facility licensed in accordance with article 17 as a county medical care facility, freestanding surgical outpatient facility, home for the aged, hospital, hospital long-term care unit, nursing home, and hospice.

(g) "Side effects of cancer" means symptoms of cancer.

(h) "Single unit dose packaging" means a single unit container for articles intended for administration as a single dose, direct from the container.

(i) "Tamper-evident unit dose packaging" means a container within which a drug is sealed so that the contents cannot be opened without obvious destruction of the seal.

History: Add. 2006, Act 416, Imd. Eff. Sept. 29, 2006
Popular Name: Act 368

Part 178
PHYSICAL THERAPY

333.17801 Definitions; principles of construction.

Sec. 17801.

(1) As used in this part:

(a) "Physical therapist" means an individual licensed under this article to engage in the practice of physical therapy.

(b) "Physical therapist assistant" means an individual with a health profession subfield license under this part who assists a physical therapist in physical therapy intervention.

(c) "Practice as physical therapist assistant" means the practice of physical therapy performed under the supervision of a physical therapist licensed under this part.

(d) "Practice of physical therapy" means the evaluation of, education of, consultation with, or treatment of an individual by the employment of effective properties of physical measures and the use of therapeutic exercises and rehabilitative procedures, with or without assistive devices, for the purpose of preventing, correcting, or alleviating a physical or mental disability. Physical therapy includes treatment planning, performance of tests and measurements, interpretation of referrals, initiation of referrals, instruction, consultative services, and supervision of personnel. Physical measures include massage, mobilization, heat, cold, air, light, water, electricity, and sound. Practice of physical therapy does not include the identification of underlying medical problems or etiologies, establishment of medical diagnoses, or the prescribing of treatment.

(2) 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.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1982, Act 177, Imd. Eff. June 9, 1982 ;-- Am. 1987, Act 213, Imd. Eff. Dec. 22, 1987 ;-- Am. 2009, Act 55, Imd. Eff. June 25, 2009
Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Popular Name: Act 368

333.17819 Practice of physical therapy or physical therapist assistant; activities; scope of practice.

Sec. 17819.

This part does not prohibit an individual licensed, registered, or otherwise authorized to engage in a health profession under any other part or any other act from performing activities that are considered the practice of physical therapy or the practice as a physical therapist assistant so long as those activities are within the individual's scope of practice and the individual does not use the words, titles, or letters protected under section 17820.

History: Add. 2010, Act 382, Imd. Eff. Dec. 22, 2010
Popular Name: Act 368

333.17820 Practice of physical therapy or physical therapist assistant; license or authorization required; engaging in treatment with or without prescription of certain license holders; use of words, titles, or letters.

Sec. 17820.

(1) An individual shall not engage in the practice of physical therapy or practice as a physical therapist assistant unless licensed or otherwise authorized under this part. Except as otherwise provided in this subsection, a physical therapist or physical therapist assistant shall engage in the treatment of a patient if that treatment is prescribed by a health care professional who is an advanced practice registered nurse as that term is defined in section 17201, or who holds a license issued under part 166, 170, 175, or 180, or an equivalent license issued by another state. A physical therapist or a physical therapist assistant may engage in the treatment of a patient without the prescription of a health care professional who is an advanced practice registered nurse as that term is defined in section 17201, or who holds a license issued under part 166, 170, 175, or 180, or an equivalent license issued by another state, under either of the following circumstances:

(a) For 21 days or 10 treatments, whichever first occurs. However, a physical therapist shall determine that the patient's condition requires physical therapy before delegating physical therapy interventions to a physical therapist assistant.

(b) The patient is seeking physical therapy services for the purpose of preventing injury or promoting fitness.

(2) The following words, titles, or letters or a combination of words, titles, or letters, with or without qualifying words or phrases, are restricted in use only to those persons authorized under this part to use the terms and in a way prescribed in this part: "physical therapy", "physical therapist", "doctor of physiotherapy", "doctor of physical therapy", "physiotherapist", "physiotherapy", "registered physical therapist", "licensed physical therapist", "physical therapy technician", "physical therapist assistant", "physical therapy assistant", "physiotherapist assistant", "physiotherapy assistant", "p.t. assistant", "p.t.", "r.p.t.", "l.p.t.", "c.p.t.", "d.p.t.", "m.p.t.", "p.t.a.", "registered p.t.a.", "licensed p.t.a.", "certified p.t.a.", "c.p.t.a.", "l.p.t.a.", "r.p.t.a.", and "p.t.t.".

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1982, Act 177, Imd. Eff. June 9, 1982 ;-- Am. 1987, Act 213, Imd. Eff. Dec. 22, 1987 ;-- Am. 2005, Act 281, Imd. Eff. Dec. 19, 2005 ;-- Am. 2006, Act 387, Imd. Eff. Sept. 27, 2006 ;-- Am. 2009, Act 55, Imd. Eff. June 25, 2009 ;-- Am. 2014, Act 260, Eff. Jan. 1, 2015 ;-- Am. 2016, Act 499, Eff. Apr. 9, 2017
Popular Name: Act 368

333.17821 Michigan board of physical therapy; creation; membership; terms.

Sec. 17821.

(1) The Michigan board of physical therapy is created in the department and shall consist of the following 11 voting members who shall meet the requirements of part 161: 6 physical therapists, 1 physical therapist assistant, and 4 public members.

(2) The terms of office of the individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 387, Imd. Eff. Sept. 27, 2006 ;-- Am. 2009, Act 55, Imd. Eff. June 25, 2009
Popular Name: Act 368

333.17822 Physical therapist; practice in hospital; condition.

Sec. 17822.

This part does not prohibit a hospital, as a condition of employment or the granting of staff privileges, from requiring that a physical therapist perform activities within his or her scope of practice in the hospital if that treatment is prescribed by an individual who is an advanced practice registered nurse as that term is defined in section 17201, or who holds a license issued under part 166, 170, 175, or 180, or an equivalent license issued by

another state.

History: Add. 1987, Act 213, Imd. Eff. Dec. 22, 1987 ;-- Am. 2005, Act 281, Imd. Eff. Dec. 19, 2005 ;-- Am. 2016, Act 499, Eff. Apr. 9, 2017
Popular Name: Act 368

333.17823 Professional development requirements; rules.

Sec. 17823.

The department, in consultation with the board, shall promulgate rules to establish professional development requirements for physical therapists and physical therapist assistants. Notwithstanding the requirements of part 161, beginning the license year after the effective date of the rules promulgated under this subsection, an individual shall meet the professional development requirements established under 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 the board of the successful completion, during the preceding license term, of those professional development requirements.

History: Add. 2009, Act 55, Imd. Eff. June 25, 2009
Popular Name: Act 368

333.17824 Treatment of patient upon or without prescription of health care professional; duties of physical therapist.

Sec. 17824.

(1) A physical therapist who is treating a patient upon the prescription of a health care professional as described in section 17820 shall do all of the following, as applicable:

(a) Refer the patient back to the health care professional who issued the prescription for treatment if the physical therapist has reasonable cause to believe that symptoms or conditions are present that require services beyond the scope of practice of physical therapy.

(b) Consult with the health care professional who issued the prescription for treatment if the patient does not show reasonable response to treatment in a time period consistent with the standards of practice as determined by the board.

(2) A physical therapist who is treating a patient without a prescription from a health care professional under the conditions authorized in section 17820 shall do all of the following, as applicable:

(a) Refer the patient to an appropriate health care professional for treatment if the physical therapist has reasonable cause to believe that symptoms or conditions are present that require services beyond the scope of practice of physical therapy.

(b) Consult with an appropriate health care professional if the patient does not show reasonable response to treatment in a time period consistent with the standards of practice as determined by the board.

History: Add. 2009, Act 55, Imd. Eff. June 25, 2009 ;-- Am. 2014, Act 260, Eff. Jan. 1, 2015
Popular Name: Act 368

333.17825 Third party reimbursement or mandated worker's compensation benefits.

Sec. 17825.

This part does not require new or additional third party reimbursement or mandated worker's compensation

benefits for physical therapy services and does not preclude a third party payer from requiring a member or enrollee to fulfill benefit requirements for physical therapy services, including, but not limited to, prescription, referral, or preapproval when services are rendered by an individual licensed or otherwise authorized under this part.

History: Add. 2009, Act 55, Imd. Eff. June 25, 2009
Popular Name: Act 368

333.17826 Physical therapist assistant; licensure requirements; approval of physical therapist assistant training program.

Sec. 17826.

(1) An applicant for licensure as a physical therapist assistant shall meet the requirements of section 16174 and, except as otherwise provided in subsection (2), all of the following requirements, as applicable:

(a) Is a graduate of a program for the training of physical therapist assistants approved by the board.

(b) If graduated from a program described in subdivision (a) after January 1, 2008, has passed an examination approved by the board.

(2) For the purposes of subsection (1)(a), the board shall approve a physical therapist assistant training program from the United States military or from outside of the United States if that training program is determined to be substantially equivalent to physical therapist assistant entry level training in the United States by a credentials evaluation organization approved by the American physical therapy association or is listed as a credentialing organization in 8 CFR 212.15(e).

History: Add. 2009, Act 55, Imd. Eff. June 25, 2009
Popular Name: Act 368

333.17827 Limited license; effectiveness.

Sec. 17827.

Beginning on the effective date of this section and ending on the effective date of rules promulgated regarding the issuance of licenses to physical therapist assistants under this part, the board shall grant a limited license to an applicant who is a graduate of a physical therapist assistant education program accredited by the commission on accreditation in physical therapy education. A limited license issued under this section is effective until the board formally issues or denies a license to the applicant.

History: Add. 2009, Act 55, Imd. Eff. June 25, 2009
Popular Name: Act 368

333.17829 Standards of practice for services involving vaginal or anal penetration; promulgation of rules.

Sec. 17829.

The department may promulgate rules that provide guidance to licensees on generally accepted standards of practice for services involving vaginal or anal penetration, including internal pelvic floor treatments. If the department promulgates rules under this section, the department shall consult with appropriate professional associations and other interested stakeholders.

History: Add. 2023, Act 62, Eff. Oct. 10, 2023
Popular Name: Act 368

333.17831 Repealed. 1987, Act 213, Imd. Eff. Dec. 22, 1987.

Compiler's Notes: The repealed section provided penalties.
Popular Name: Act 368

PART 179.
ATHLETIC TRAINING

333.17901 Definitions.

Sec. 17901.

(1) As used in this part:

(a) "Athletic trainer" means an individual engaged in the practice of athletic training.

(b) "Practice of athletic training" means the treatment of an individual for risk management and injury prevention, the clinical evaluation and assessment of an individual for an injury or illness, or both, the immediate care and treatment of an individual for an injury or illness, or both, and the rehabilitation and reconditioning of an individual's injury or illness, or both, if those activities are within the rules promulgated under section 17904 and performed under the direction of, on the prescription of, or in collaboration with an individual licensed under part 170 or 175. The practice of athletic training does not include the practice of physical therapy, the practice of medicine, the practice of osteopathic medicine and surgery, the practice of chiropractic, or medical diagnosis or treatment.

(2) 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.

History: Add. 2006, Act 54, Eff. Dec. 1, 2006 ;-- Am. 2015, Act 166, Eff. Jan. 26, 2016
Compiler's Notes: Act 368

333.17902 Practice of athletic training; license required; use of titles; exceptions.

Sec. 17902.

(1) Beginning on February 4, 2010, an individual shall not engage in the practice of athletic training unless licensed under this part or otherwise authorized to engage in the practice of athletic training under this section. An individual licensed under this part shall not provide, offer to provide, or represent that he or she is qualified to provide any services that he or she is not qualified to perform by his or her education, training, or experience or that he or she is otherwise prohibited by law from performing.

(2) Subsection (1) does not prohibit an individual licensed under any other part or any other act from performing activities that are considered the practice of athletic training so long as those activities are within the individual's scope of practice and the individual does not use the titles protected under subsection (3).

(3) Except as otherwise provided in this section, beginning on February 4, 2010, an individual shall not use the titles "athletic trainer", "licensed athletic trainer", "certified athletic trainer", "athletic trainer certified", "a.t.", "a.t.l.", "c.a.t.", "a.t.c.", or similar words that indicate that the person is an athletic trainer unless the individual is licensed under this article as an athletic trainer.

(4) This part does not apply to a person who is present in this state for an event that uses the services of athletic trainers, who is present in this state for not more than 30 consecutive days, and who is a board of certification certified athletic trainer or is licensed as an athletic trainer in another state.

History: Add. 2006, Act 54, Eff. Dec. 1, 2006 ;-- Am. 2011, Act 26, Imd. Eff. May 16, 2011
Compiler's Notes: Act 368

333.17903 Michigan athletic trainer board; creation; membership; terms.

Sec. 17903.

(1) The Michigan athletic trainer board is created in the department and shall consist of the following members meeting the requirements of part 161:

(a) Until June 30, 2010, 4 athletic trainers. Beginning July 1, 2010, 6 athletic trainers.

(b) Until June 30, 2010, 1 public member. Beginning July 1, 2010, 3 public members.

(c) Two physicians licensed under part 170 or 175.

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

History: Add. 2006, Act 54, Eff. Dec. 1, 2006 ;-- Am. 2006, Act 387, Imd. Eff. Sept. 27, 2006 ;-- Am. 2010, Act 79, Imd. Eff. May 20, 2010
Compiler's Notes: Act 368

333.17904 Rules.

Sec. 17904.

(1) The department shall promulgate rules establishing the minimum standards for licensure as an athletic trainer under this part for purposes of section 17905(1) and the minimum standards of care for the practice of athletic training.

(2) In promulgating the rules required under this section, the department may consult the professional standards issued by the National Athletic Trainer's Association, by the National Athletic Trainer's Association Board of Certification, or by another nationally recognized professional association. The department may incorporate by reference, in whole or in part, existing standards in the rules.

(3) As needed, the department may amend or supplement any standards described in this section by rule.

History: Add. 2006, Act 54, Eff. Dec. 1, 2006 ;-- Am. 2020, Act 19, Imd. Eff. Jan. 27, 2020
Compiler's Notes: Act 368

333.17905 License; requirements; continuing education rules.

Sec. 17905.

(1) The department shall issue a license under this article as an athletic trainer to an individual who meets all of the following requirements:

(a) Applies to the department on a form provided by the department.

(b) Meets the requirements for licensure in rules promulgated under section 17904.

(c) Pays the fees prescribed in section 16336.

(2) The department, in consultation with the board, shall promulgate rules under this subsection to establish continuing education requirements for athletic trainers. The rules must adopt, by reference, the continuing education standards for athletic trainers issued by the Board of Certification, Inc. that are in existence on the effective date of the amendatory act that amended this subsection. The department, in consultation with the board, may adopt any updates or amendments to the standards described in this subsection by rule. Notwithstanding the

requirements of part 161, beginning with the license cycle after the effective date of the rules promulgated under this subsection, an individual must meet the continuing education requirements established under 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 the board of the successful completion, during the preceding license cycle, of those continuing education requirements.

History: Add. 2006, Act 54, Eff. Dec. 1, 2006 ;-- Am. 2015, Act 166, Eff. Jan. 26, 2016 ;-- Am. 2020, Act 19, Imd. Eff. Jan. 27, 2020
Compiler's Notes: Act 368

333.17906 License renewal.

Sec. 17906.

A license issued under section 17905 is renewable upon payment of the prescribed license renewal fee and the successful completion of the requirements for license renewal in rules promulgated under section 17905(2).

History: Add. 2006, Act 54, Eff. Dec. 1, 2006 ;-- Am. 2015, Act 166, Eff. Jan. 26, 2016 ;-- Am. 2020, Act 19, Imd. Eff. Jan. 27, 2020
Compiler's Notes: Act 368

333.17907 Third party reimbursement.

Sec. 17907.

This part does not require new or additional third party reimbursement for services rendered by an individual licensed under this part.

History: Add. 2006, Act 54, Eff. Dec. 1, 2006
Compiler's Notes: Act 368

333.17909 Standards of practice for services involving vaginal or anal penetration; promulgation of rules.

Sec. 17909.

The department may promulgate rules that provide guidance to licensees on generally accepted standards of practice for services involving vaginal or anal penetration, including internal pelvic floor treatments. If the department promulgates rules under this section, the department shall consult with appropriate professional associations and other interested stakeholders.

History: Add. 2023, Act 62, Eff. Oct. 10, 2023
Popular Name: Act 368

PART 179A.

333.17951 Definitions.

Sec. 17951.

(1) As used in this part:

(a) "Feldenkrais method" means a system of somatic education in which touch and words are used to eliminate faulty habits, learn new patterns of self-organization and action, and improve a person's own functional movement patterns. Feldenkrais method is based on principles of physics, biomechanics, and an understanding of, or learning about, human development.

(b) "Massage therapist" means an individual engaged in the practice of massage therapy.

(c) "Polarity therapy" means diverse applications affecting the human energy system and includes energetic approaches to somatic contact, verbal facilitation, nutrition, exercise, and health education. Polarity therapy does not make medical claims, diagnose physical ailments, or allow prescription of medications.

(d) "Practice of massage therapy" means the application of a system of structured touch, pressure, movement, and holding to the soft tissue of the human body in which the primary intent is to enhance or restore the health and well-being of the client. Practice of massage therapy includes complementary methods, including the external application of water, heat, cold, lubrication, salt scrubs, body wraps, or other topical preparations; and electromechanical devices that mimic or enhance the actions possible by the hands. Practice of massage therapy does not include medical diagnosis; practice of physical therapy; high-velocity, low-amplitude thrust to a joint; electrical stimulation; application of ultrasound; or prescription of medicines.

(e) "School" means any of the following accredited or licensed institutions of higher education that meet the minimum standards and curriculum, in compliance with section 16148:

(i) A public or private community college, college, or university.

(ii) A public or private trade, vocational, or occupational school.

(f) "Trager approach" means a form of movement education that uses subtle directed movements and the skilled touch of a practitioner. The Trager approach combines physical movement with sensory awareness and internal imagery designed to increase the client's self-awareness and generate physiological changes in the body tissues so as to allow the client to experience a new way of moving his or her body.

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

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009
Popular Name: Act 368

333.17953 Use of certain titles, words, or initials.

Sec. 17953.

An individual shall not use the titles "licensed massage therapist", "massage therapist", "masseur", "massagist", "certified massage therapist", "clinical massage therapist", "medical massage therapist", "manual massage therapist", "board certified massage therapist", "massage technician", "myomassologist", "masseuse", "l.m.t.", "m.m.t.", and "c.m.t.", or similar words or initials that indicate that the individual is a massage therapist, unless the individual is licensed under this article as a massage therapist. This section does not prevent the use of a name, title, or initials that are registered or otherwise protected under law and used by a person certified or otherwise approved by a private organization.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009
Popular Name: Act 368

333.17955 Michigan board of massage therapy; creation; membership; qualifications; terms; appointment; vacancy.

Sec. 17955.

(1) The Michigan board of massage therapy is created in the department and consists of the following 11 members appointed by the governor who meet the requirements of part 161:

(a) Seven individuals who meet the requirements of section 16135(2).

(b) Four public members.

(2) Except as otherwise provided in this subsection, the terms of office of individual members of the board created under subsection (1) expire 4 years after appointment on December 31 of the year in which the term will expire. Of the members first appointed to the board under subsection (1), 4 shall be appointed for terms of 4 years, 4 shall be appointed for terms of 3 years, and 3 shall be appointed for terms of 2 years. The term of office of an individual appointed to fill a vacancy expires at the end of the term of the vacancy being filled.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009
Popular Name: Act 368

333.17957 Massage therapy; license required; exceptions.

Sec. 17957.

(1) An individual shall not engage in the practice of massage therapy unless licensed under this part. The practices for which a license is not required under this subsection include, but are not limited to, all of the following:

(a) The use of touch, words, or directed movement to deepen awareness of patterns of movement in the body as long as those services are not designated or implied to be massage or massage therapy. These practices include, but are not limited to, all of the following:

(i) The Feldenkrais method.

(ii) The Trager approach.

(b) The affectation of the human energy system or acupoints or qi meridians of the human body while engaged within the scope of practice of a profession with established standards and ethics and as long as those services are not designated or implied to be massage or massage therapy. These practices include, but are not limited to, all of the following:

(i) Polarity or polarity therapy.

(ii) Asian bodywork therapy.

(iii) Reiki.

(iv) Shiatsu.

(c) Reflexology.

(d) Structural integration.

(2) The department shall provide for a 3-year license cycle.

(3) Subsection (1) does not prevent any of the following:

(a) An individual licensed under any other part or act from performing activities that are considered massage therapy services if those activities are within the individual's scope of practice and if the individual does not use the titles, words, or initials protected under section 17953.

(b) The practice of massage therapy that is an integral part of a program of study by students enrolled in a school, provided that they are identified as students and provide massage therapy services only while under the supervision of a licensed massage therapist.

(c) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a licensed massage therapist.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009
Popular Name: Act 368

333.17959 Massage therapist; license; issuance; requirements; "classroom instruction" and "distance education" defined.

Sec. 17959.

(1) If it receives a completed application and payment of the appropriate application processing and license fee, the department shall issue a license under this part to an individual who fulfills all of the following requirements:

(a) Is of good moral character as defined in section 1 of 1974 PA 381, MCL 338.41.

(b) Is at least 18 years of age.

(c) Has successfully passed an examination that meets the requirements of section 17961.

(d) Has successfully completed 1 of the following, and provides an academic transcript that is satisfactory to the board as evidence of successful completion:

(i) A massage education program that meets all of the following:

(A) Includes at least 500 hours of classroom instruction to complete the program if the applicant is or was enrolled in the school before August 1, 2017, or at least 625 hours of classroom instruction if the applicant enrolls in the school on or after August 1, 2017.

(B) Uses only classroom instruction described in subsection (3)(a)(i) to provide program components that contain psychomotor domain learning, including palpation, hands-on techniques, and clinical or lab experiences, or to provide other program components that the board determines require classroom instruction described in subsection (3)(a)(i).

(C) All classroom instruction in the program is facilitated by a qualified instructor who is trained in the subject matter he or she is teaching, and, if the classroom instruction is provided by distance education, is trained in distance education teaching methods.

(ii) The following number of hours of course and clinical massage education in a substantially equivalent program in another state, country, jurisdiction, territory, or province that, on a case-by-case review, is found by the board to be sufficient:

(A) If the applicant is or was enrolled in the school before August 1, 2017, at least 500 hours.

(B) If the applicant enrolls in the school on or after August 1, 2017, at least 625 hours.

(2) The department shall issue a license to an applicant who meets the requirements of subsection (1)(a) and (b) and who is currently licensed as a massage therapist in another state, country, jurisdiction, territory, or province that requires standards for licensure that are substantially equivalent to the requirements for licensure under this part, as determined by the board.

(3) As used in this section:

(a) "Classroom instruction" means educational instruction that meets either of the following:

(i) Is provided at a physical location where the students and an instructor are present.

(ii) Is provided by distance education.

(b) "Distance education" means instruction that meets all of the following:

(i) Is provided electronically or online.

(ii) Does not require that the students and the instructor are physically present at the same place.

(iii) Allows for regular interaction between the students and instructor through a learning management system, online discussion board, live chat, or virtual classroom.

(iv) Provides a method for unique sign-in for student identification, provides for timely communication between instructors and students, and allows students to monitor their grades and progress.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009 ;-- Am. 2010, Act 304, Imd. Eff. Dec. 17, 2010 ;-- Am. 2016, Act 371, Imd. Eff. Dec. 22, 2016

Popular Name: Act 368

333.17961 Examination.

Sec. 17961.

(1) The board shall provide that applicants pass an examination that measures entry level competence before issuance of a license under this part.

(2) For licensure purposes under this part, the board shall adopt only those examinations that meet all of the following requirements:

(a) Are statistically validated through a job analysis under current standards for educational and professional testing.

(b) Has examination standards that comply with pertinent state and federal equal employment opportunity guidelines.

(c) Are available to all potential candidates for licensure.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009
Popular Name: Act 368

333.17963 Rules.

Sec. 17963.

(1) The board shall promulgate rules to create a code of professional ethics.

(2) A licensee shall make a written referral of a client to an appropriate health professional if the client's physical or medical condition appears to constitute a contraindication for massage therapy.

(3) The board and department shall not, by rule or otherwise, restrict the right of a licensee to participate in and become a member of any nationally recognized trade or professional association.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009
Popular Name: Act 368

333.17965 Renewal; continuing education.

Sec. 17965.

Subject to section 16204, the board shall, by rule, require as a condition of renewal of a license the furnishing of evidence of at least 18 hours, or the equivalent acceptable to the board, of continuing education for each 3-year license cycle. The courses shall be approved by the board and shall include subjects related to the practice of massage therapy.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009
Popular Name: Act 368

333.17967 Licensing requirements; administrative rules.

Sec. 17967.

Beginning 1 year after the certification of administrative rules to implement and administer this part, a local unit of government shall not establish or maintain licensing requirements for a massage therapist licensed under this part.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009 ;-- Am. 2010, Act 88, Imd. Eff. June 7, 2010
Popular Name: Act 368

333.17969 Third party reimbursement or mandated worker's compensation benefits.

Sec. 17969.

This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed under this part.

History: Add. 2008, Act 471, Imd. Eff. Jan. 9, 2009
Popular Name: Act 368

Part 180
PODIATRIC MEDICINE AND SURGERY

333.18001 Definitions; principles of construction.

Sec. 18001.

(1) As used in this part:

(a) "Medical care services" means those services within the scope of practice of podiatric physicians licensed by the board, except those services that the board prohibits or otherwise restricts within a practice agreement or determines shall not be delegated by a podiatric physician without endangering the health and safety of patients as provided for in section 18048.

(b) "Participating podiatrist" means a podiatric physician or a podiatric physician designated by a group of podiatric physicians under section 18049 to represent that group.

(c) "Podiatric physician" means an individual who is licensed under this article to engage in the practice of podiatric medicine and podiatric surgery.

(d) "Practice agreement" means an agreement described in section 18047.

(e) "Practice as a physician's assistant" means the practice of podiatric medicine and podiatric surgery with a participating podiatric physician under a practice agreement.

(f) Except as otherwise provided in subdivision (g), "practice of podiatric medicine and podiatric surgery" means any of the following:

(i) The evaluation, diagnosis, management, and prevention of conditions of the lower extremities, including local manifestations of systemic disease in the human foot and ankle, by attending to and advising patients and through the use of devices, diagnostic tests, drugs and biologicals, surgical procedures, or other means. The evaluation, diagnosis, management, and prevention of conditions of the lower extremities may include osseous and soft tissue procedures that address the pathology of the foot, ankle, and the contiguous attachments below the tibial tuberosity.

(ii) The treatment of ulcerations below the tibial tuberosity and of human nail diseases, callosities, and verruca.

(g) "Practice of podiatric medicine and podiatric surgery" does not include amputations proximal to the tibiotalar joint, proximal osseous procedures that do not involve the tibiotalar joint, or the administration of intravenous sedation or general anesthesia.

(h) "Task force" means the joint task force created in section 17025.

(2) 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.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2006, Act 161, Eff. Nov. 26, 2006 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017 ;-- Am. 2018, Act 355, Eff. Feb. 13, 2019
Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Popular Name: Act 368

333.18008 Physician's assistant; health profession subfield.

Sec. 18008.

Practice as a physician's assistant is a health profession subfield of the practice of podiatric medicine and surgery, the practice of osteopathic medicine and surgery, and the practice of medicine.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006
Popular Name: Act 368

333.18011 Practice of podiatric medicine and surgery or as physician's assistant; license or authorization required; use of words, titles, or letters.

Sec. 18011.

(1) A person shall not engage in the practice of podiatric medicine and surgery or practice as a physician's assistant unless licensed or otherwise authorized by this article.

(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 part to use the terms and in a way prescribed in this part: "chiropodist", "chiropody", "chiropodical", "podiatry", "podiatrist", "podiatric", "doctor of podiatric medicine", "foot specialist", "podiatric physician and surgeon", and "d.p.m.".

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2006, Act 161, Eff. Nov. 26, 2006 ;-- Am. 2006, Act 391, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.18012 Postgraduate podiatric study; full or limited license required; requirements of limited license; responsibility for training; limited license renewable.

Sec. 18012.

(1) An individual shall not engage in postgraduate podiatric study in podiatric medicine and surgery, including the practice of podiatric medicine and surgery, before obtaining a full or limited license to practice under this part.

(2) A limited license for a postgraduate shall require that the individual confine his or her practice and training to a hospital, institution, or preceptorship program approved by the board for the training. The hospital, institution, or preceptorship program is responsible for the training. A limited license for a postgraduate is renewable for not more than 5 years.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1985, Act 31, Imd. Eff. June 12, 1985
Popular Name: Act 368

333.18021 Michigan board of podiatric medicine and surgery; creation; membership; terms.

Sec. 18021.

(1) The Michigan board of podiatric medicine and surgery is created in the department and consists of the following 9 voting members who shall meet the requirements of part 161: 5 podiatrists, 1 physician's assistant, and 3 public members.

(2) Except as otherwise provided in this article, the board of podiatric medicine and surgery does not have the powers and duties vested in the task force by sections 17060 to 17084.

(3) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 161, Eff. Nov. 26, 2006 ;-- Am. 2006, Act 391, Imd. Eff. Sept. 27, 2006 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.18031 Condition for more than limited licensure.

Sec. 18031.

An applicant, in addition to completing the requirements for the degree as a doctor of podiatric medicine, shall complete a period of postgraduate education to attain proficiency in the practice of the profession as prescribed by the board in rule as a condition for more than limited licensure.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.18033 Renewal of license; evidence required; completion of hours or courses in pain and symptom management as continuing education; rules.

Sec. 18033.

(1) Notwithstanding the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 3 years immediately preceding application for renewal the licensee has attended continuing education courses or programs approved by the board and totaling not less than 150 hours in subjects related to the practice of podiatric medicine and surgery and designed to further educate licensees.

(2) As required under section 16204, the board shall promulgate rules requiring each applicant for license renewal to complete as part of the continuing education requirement of subsection (1) an appropriate number of hours or courses in pain and symptom management.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1978, Act 625, Imd. Eff. Jan. 6, 1979 ;-- Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986 ;-- Am. 1994, Act 234, Imd. Eff. June 30, 1994
Popular Name: Act 368

333.18047 Practice as physician's assistant; practice agreement; requirements.

Sec. 18047.

(1) A physician's assistant shall not engage in the practice as a physician's assistant except under the terms of a practice agreement that meets the requirements of this section.

(2) A practice agreement must include all of the following:

(a) A process between the physician's assistant and participating podiatrist for communication, availability, and decision making when providing medical treatment to a patient. The process must utilize the knowledge and skills of the physician's assistant and participating podiatrist based on their education, training, and experience.

(b) A protocol for designating an alternative podiatrist for consultation in situations in which the participating podiatrist is not available for consultation.

(c) The signature of the physician's assistant and the participating podiatrist.

(d) A termination provision that allows the physician's assistant or participating podiatrist to terminate the practice agreement by providing written notice at least 30 days before the date of termination.

(e) Subject to section 18048, the duties and responsibilities of the physician's assistant and participating podiatrist. The practice agreement shall not include as a duty or responsibility of the physician's assistant or participating podiatrist an act, task, or function that the physician's assistant or participating podiatrist is not qualified to perform by education, training, or experience and that is not within the scope of the license held by the physician's assistant or participating podiatrist.

(f) A requirement that the participating podiatrist verify the physician's assistant's credentials.

(3) The number of physician's assistants in a practice agreement with a participating podiatrist and the number of individuals to whom a podiatrist has delegated the authority to perform acts, tasks, or functions are subject to section 16221.

History: Add. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.18048 Prohibiting or restricting delegation of medical care service; requiring higher levels of supervision.

Sec. 18048.

Except for a medical care service within a practice agreement, to the extent that a particular selected medical care service requires extensive training, education, or ability or poses serious risks to the health or safety of patients, the board may prohibit or otherwise restrict the delegation of that medical care service or may require higher levels of supervision. To the extent that a particular medical care service requires extensive training, education, or ability or poses serious risks to the health or safety of patients, the board may prohibit or otherwise restrict that medical care service within a practice agreement.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006 ;-- Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.18049 Practice agreement; designation of podiatrist; countersigning order or signing official form not required.

Sec. 18049.

(1) A group of podiatrists practicing other than as sole practitioners may designate 1 or more podiatrists in the group to enter into a practice agreement under section 18047.

(2) Notwithstanding any law or rule to the contrary, a podiatrist is not required to countersign orders written in a patient's clinical record by a physician's assistant with whom the podiatrist has a practice agreement. Notwithstanding any law or rule to the contrary, a podiatrist is not required to sign an official form that lists the podiatrist's signature as the required signatory if that official form is signed by a physician's assistant with whom the podiatrist has a practice agreement.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006 ;-- Am. 2011, Act 210, Imd. Eff. Nov. 8, 2011 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.18050 Prohibiting podiatrist or physician's assistant from entering practice agreement; grounds; rules concerning prescribing of drugs.

Sec. 18050.

(1) In addition to its other powers and duties under this article, the board may prohibit a podiatrist or a physician's assistant from entering into a practice agreement for any of the grounds set forth in section 16221.

(2) For purposes of section 18051, the department, in consultation with the board, may promulgate rules concerning the prescribing of drugs by a physician's assistant. Subject to section 18051, the rules may define the drugs or classes of drugs that a physician's assistant may not prescribe and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006 ;-- Am. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.18051 Physician's assistant; making calls or going on rounds; prescribing drug; ordering, receiving, and dispensing complimentary starter dose drugs.

Sec. 18051.

(1) A physician's assistant may make calls or go on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities in accordance with a practice agreement. Notwithstanding any law or rule to the contrary, a physician's assistant may make calls or go on rounds as provided in this subsection without restrictions on the time or frequency of visits by a podiatrist or the physician's assistant.

(2) A physician's assistant who is a party to a practice agreement may prescribe a drug in accordance with procedures and protocols for the prescription established by rule of the department in consultation with the appropriate board. A physician's assistant may prescribe a drug, including a controlled substance that is included in schedules 2 to 5 of part 72. If a physician's assistant prescribes a drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that prescription. If a physician's assistant prescribes a drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that prescription.

(3) A physician's assistant may order, receive, and dispense complimentary starter dose drugs, including controlled substances that are included in schedules 2 to 5 of part 72. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection, the physician's assistant's name shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. If a physician's assistant orders, receives, or dispenses a complimentary starter dose drug under this subsection that is included in schedules 2 to 5, the physician's assistant's DEA registration number shall be used, recorded, or otherwise indicated in connection with that order, receipt, or dispensing. As used in this subsection, "complimentary starter dose" means that term as defined in section 17745. It is the intent of the legislature in enacting this subsection to allow a pharmaceutical manufacturer or wholesale distributor, as those terms are defined in part 177, to distribute complimentary starter dose drugs to a physician's assistant, as described in this subsection, in compliance with section 503(d) of the federal food, drug, and cosmetic act, 21 USC 353.

History: Add. 2016, Act 379, Eff. Mar. 22, 2017
Popular Name: Act 368

333.18054 Approval of physician's assistants and valuation of training programs; criteria.

Sec. 18054.

The board shall make written recommendations on criteria for the approval of physician's assistants and on criteria for the valuation of physician's assistants training programs to the task force on physician's assistants.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006
Popular Name: Act 368

333.18056 Applicability of part to student in training.

Sec. 18056.

This part does not apply to a student in training to become a physician's assistant while performing duties assigned as part of the training.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006
Popular Name: Act 368

333.18058 Third party reimbursement or worker's compensation benefits not required.

Sec. 18058.

This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual authorized to practice as a physician's assistant under this part.

History: Add. 2006, Act 161, Eff. Nov. 26, 2006
Popular Name: Act 368

Part 181
COUNSELING

333.18101 Definitions.

Sec. 18101.

As used in this part:

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

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

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

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

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

(A) "Counseling techniques" means the application of basic counseling and psychotherapy skills and theories in the counseling process for the purposes of establishing and maintaining the counseling relationship; diagnosing the problem; formulating a preventative, treatment, or rehabilitative plan; and facilitating appropriate interventions.

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

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

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

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

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

(A) An emotional disorder.

(B) A mental disorder.

(C) An addiction disorder.

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

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

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

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

(c) "Limited licensed counselor" means an individual who has been granted a limited license under this article to

engage in the practice of counseling under the supervision of a licensed professional counselor who meets the requirement of section 18106.

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

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

(i) A psychologist as defined in section 18201.

(ii) A marriage and family therapist as defined in section 16901.

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

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

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

(ii) A program that is not accredited by the Council for the Accreditation of Counseling and Related Educational Programs, includes coursework and training in the diagnosis and treatment of mental and emotional disorders and all other coursework requirements of the Council for the Accreditation of Counseling and Related Educational Programs, including practicum and internship requirements, and is approved by the department in consultation with the board.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989 ;-- Am. 2019, Act 96, Eff. Jan. 27, 2020
Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Popular Name: Act 368

333.18103 Michigan board of counseling; creation; membership; terms of office.

Sec. 18103.

(1) The Michigan board of counseling is created in the department. The board shall consist of the following 11 voting members who shall meet the requirements of part 161:

(a) Six members of the board shall be engaged in the practice of counseling and shall consist of: 3 members who are engaged primarily in providing counseling techniques, behavior modification techniques, or preventive techniques to clients; 2 members who are engaged primarily in teaching, training, or research in counseling; and 1 member who is engaged primarily in the administration of counseling services.

(b) Four members of the general public.

(c) One member who is a statutorily regulated mental health professional. As used in this subdivision, "statutorily regulated mental health professional" means any of the following: a psychiatrist, psychologist, substance abuse counselor, marriage and family therapist, or social worker.

(2) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on June 30 of the year in which the term expires.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 429, Imd. Eff. Oct. 5, 2006
Popular Name: Act 368

333.18105 Practice of counseling; conditions; use of words, titles, or letters.

Sec. 18105.

(1) A licensee shall not perform any acts, tasks, or functions within the practice of counseling unless he or she is trained to perform such acts, tasks, or functions.

(2) Effective October 1, 1990, a person shall not engage in the practice of counseling unless licensed or otherwise authorized under this article.

(3) 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 part to use the terms and in a way prescribed in this part: "licensed professional counselor", "licensed counselor", "professional counselor", and "l.p.c.".

History: Add. 1988, Act 421, Eff. Mar. 30, 1989 ;-- Am. 1989, Act 262, Imd. Eff. Dec. 26, 1989 ;-- Am. 2006, Act 429, Imd. Eff. Oct. 5, 2006
Popular Name: Act 368

333.18106 Supervision of limited licensed counselor; training required.

Sec. 18106.

A licensed professional counselor shall not supervise a limited licensed counselor without completing training in supervision as required by rules promulgated by the department in consultation with the board.

History: Add. 2019, Act 96, Eff. Jan. 27, 2020
Popular Name: Act 368

333.18107 Professional counselor license; qualifications; rules.

Sec. 18107.

(1) Subject to subsection (2), the department may grant a professional counselor license to an individual who meets all of the following criteria:

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

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

(c) Has at least 2 years of counseling experience under the supervision of a licensed professional counselor. The department in consultation with the board may decrease the required length of counseling experience under the supervision of a licensed professional counselor to 1 year if an applicant has completed a doctoral degree in counseling. An applicant shall not be licensed before completing 1 year of counseling experience under the supervision of a licensed professional counselor.

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

History: Add. 1988, Act 421, Eff. Mar. 30, 1989 ;-- Am. 1989, Act 262, Imd. Eff. Dec. 26, 1989 ;-- Am. 2019, Act 96, Eff. Jan. 27, 2020

Popular Name: Act 368

333.18109 Limited license; qualifications; renewal; restricted practice.

Sec. 18109.

(1) Until October 1, 1991, the board may grant a limited license to an individual who has received a bachelor's degree and has engaged in the practice of counseling for not less than 5 years. The limited license shall be renewable for not more than 2 years.

(2) A limited license issued under this section shall require that the individual confine his or her practice to a program of counseling experience under the supervision of a licensed professional counselor.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989 ;-- Am. 1989, Act 262, Imd. Eff. Dec. 26, 1989
Popular Name: Act 368

333.18111 Limited license; criteria; restricted practice; rules.

Sec. 18111.

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

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

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

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

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

History: Add. 1988, Act 421, Eff. Mar. 30, 1989 ;-- Am. 2019, Act 96, Eff. Jan. 27, 2020
Popular Name: Act 368

333.18112 Administering assessments; training required.

Sec. 18112.

A licensee shall not administer an assessment unless he or she has received specific training on administering the assessment.

History: Add. 2019, Act 96, Eff. Jan. 27, 2020
Popular Name: Act 368

333.18113 Professional disclosure statement.

Sec. 18113.

(1) A licensee shall furnish a professional disclosure statement to a prospective client before engaging in counseling services.

(2) A professional disclosure statement required under this section shall contain all of the following:

(a) The licensee's name, business address, and telephone number.

(b) A description of the licensee's practice.

(c) A description of the education and experience of the licensee.

(d) The licensee's counseling fee schedule.

(e) The name, address, and telephone number of the department.

(3) The disclosure statement shall accompany the original application for licensure. Any changes in the disclosure statement shall be filed with the department within 30 days after the changes are made.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989
Popular Name: Act 368

333.18114 Relicensure; application requirements; professional disclosure statement; out-of-state license verification.

Sec. 18114.

(1) Except as otherwise provided in subsection (3), the department may grant relicensure as a licensed professional counselor or limited licensed counselor to an individual who is applying for relicensure less than 3 years after the expiration date of his or her license, if the individual submits to the department a completed application on a form provided by the department together with payment of the fees described in section 16201(3), and he or she complies with both of the following:

(a) Submits with his or her application a professional disclosure statement that meets the requirements of section 18113.

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

(i) That disciplinary proceedings are not pending against the individual at the time of his or her application for relicensure.

(ii) That if sanctions have been imposed against the individual, the sanctions are not in force at the time of his or her application for relicensure.

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

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

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

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

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

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

(3) The department may grant relicensure as a licensed professional counselor or limited licensed counselor to an individual who received a master's or doctoral degree in counseling or student personnel work before October 1, 1991, and completed 2 years of professional experience before October 1, 1993, if the individual submits to the department a completed application on a form provided by the department together with payment of the applicable

fees described in section 16201(3) or (4) and he or she complies with 1 of the following:

(a) Submits with his or her application a professional disclosure statement that meets the requirements of section 18113.

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

(i) That disciplinary proceedings are not pending against the individual at the time of his or her application for relicensure.

(ii) That if sanctions have been imposed against the individual, the sanctions are not in force at the time of his or her application for relicensure.

History: Add. 2019, Act 96, Eff. Jan. 27, 2020
Popular Name: Act 368

333.18115 Practice of statutorily regulated profession or occupation not limited; definition; applicability of part; use of word "counselor."

Sec. 18115.

(1) This article does not limit an individual in, nor prevent an individual from, the practice of a statutorily regulated profession or occupation if counseling is part of the services provided by that profession or occupation, and the individual does not hold himself or herself out as a counselor regulated under this article. As used in this subsection, "statutorily regulated profession or occupation" includes, but is not limited to, all of the following: a physician, attorney, marriage and family therapist, debt management counselor, licensed bachelor's social worker, licensed master's social worker, social service technician, licensed psychologist, limited licensed psychologist, temporary limited licensed psychologist, or school counselor.

(2) This part does not apply to any of the following:

(a) An ordained member of the clergy if counseling is incidental to his or her religious duties performed under the auspices or recognition of a church, denomination, religious association, or sect, that has tax-exempt status under section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, if the member of the clergy does not hold himself or herself out as a counselor licensed under this article.

(b) An individual who performs volunteer services for a public or private nonprofit organization, church, or charity, if the individual is approved by the organization or agency for which the services are rendered.

(c) An individual who is employed by or who volunteers to work in a substance use disorder services program licensed by the department under part 62.

(d) A Christian Science practitioner.

(3) Notwithstanding section 18105(3), this part does not prohibit the use of the word "counselor" without the qualifying words "licensed" or "professional" used in conjunction with the word "counselor", except as otherwise provided by law.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989 ;-- Am. 2006, Act 429, Imd. Eff. Oct. 5, 2006 ;-- Am. 2019, Act 96, Eff. Jan. 27, 2020
Popular Name: Act 368

333.18116 Third party reimbursement or mandated worker's compensation benefits.

Sec. 18116.

This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed under this part.

History: Add. 2019, Act 96, Eff. Jan. 27, 2020
Popular Name: Act 368

333.18117 Privileged communications; disclosure of confidential information.

Sec. 18117.

For the purposes of this part, the confidential relations and communications between a licensed professional counselor or a limited licensed counselor and a client of the licensed professional counselor or a limited licensed counselor are privileged communications, and this part does not require a privileged communication to be disclosed, except as otherwise provided by law. Confidential information may be disclosed only upon consent of the client, pursuant to section 16222 if the licensee reasonably believes it is necessary to disclose the information to comply with section 16222, or under section 16281.

History: Add. 1988, Act 421, Eff. Mar. 30, 1989 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 1998, Act 496, Eff. Mar. 1, 1999
Popular Name: Act 368

Part 182
PSYCHOLOGY

333.18201 Definitions; principles of construction.

Sec. 18201.

(1) As used in this part:

(a) "Psychologist" means an individual who is licensed or authorized under this article to engage in the practice of psychology.

(b) "Practice of psychology" means the rendering to individuals, groups, organizations, or the public of services involving the application of principles, methods, and procedures of understanding, predicting, and influencing behavior for the purposes of the diagnosis, assessment related to diagnosis, prevention, amelioration, or treatment of mental or emotional disorders, disabilities or behavioral adjustment problems by means of psychotherapy, counseling, behavior modification, hypnosis, biofeedback techniques, psychological tests, or other verbal or behavioral means. The practice of psychology does not include the practice of medicine such as prescribing drugs, performing surgery, or administering electro-convulsive therapy.

(2) 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.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2022, Act 254, Eff. Mar. 29, 2023
Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Popular Name: Act 368

333.18211 Practice of psychology; license or authorization required; use of words, titles, or letters.

Sec. 18211.

(1) A person shall not engage in the practice of psychology unless licensed or otherwise authorized by this article.

(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 part to use the terms and in a way prescribed in this part: "consulting psychologist", "psychologist", "psychological assistant", "psychological examiner", "licensed psychologist", and "limited licensed psychologist".

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2006, Act 395, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.18211a Psychology interjurisdictional compact; temporary authorization.

Sec. 18211a.

(1) A psychologist who has temporary authorization to practice under the psychology interjurisdictional compact or is authorized to practice interjurisdictional telepsychology under the psychology interjurisdictional compact is authorized to engage in the practice of psychology under this article.

(2) For purposes of this article, including the obligations of an individual who is licensed as a psychologist under this part, a psychologist who has temporary authorization to practice under the psychology interjurisdictional compact or is authorized to practice interjurisdictional telepsychology under the psychology interjurisdictional compact is considered a psychologist who is licensed under this part.

(3) As used in this section, "psychology interjurisdictional compact" means the psychology interjurisdictional compact as enacted in section 16190.

History: Add. 2022, Act 254, Eff. Mar. 29, 2023
Popular Name: Act 368

333.18212 Postdoctoral training which includes practice of psychology; full or limited license required; requirements of limited license; responsibility for training; limited license renewable; waiver of limited license by Michigan board of psychology.

Sec. 18212.

(1) Except as otherwise provided in subsection (3), an individual shall not engage in postdoctoral training which includes the practice of psychology without obtaining a full or limited license to practice under this part.

(2) A limited license for an individual in postdoctoral training shall require that the individual be under supervision of a licensed psychologist and confine his or her practice and training to a hospital, clinic, institution, or other arrangement approved by the board for the training. The hospital, clinic, or institution and designated licensed psychologist are responsible for the training. A limited license for a postdoctoral training is renewable for not more than 5 years.

(3) The Michigan board of psychology shall waive the requirement of having a limited license in order to engage in the postdoctoral experience necessary to obtain a full license if all of the following occur:

(a) The individual has met all the other requirements of subsection (2).

(b) The individual submits a request for the waiver in writing and pays a sum equal to the cost of a limited license.

(c) The individual has applied for a license between July 1, 1985 and July 1, 1986.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1987, Act 20, Imd. Eff. Apr. 24, 1987
Popular Name: Act 368

333.18214 Permissible conduct.

Sec. 18214.

(1) This part does not prohibit an individual who holds a doctoral degree in psychology from a regionally accredited college or university from using a title including "psychologist" if the individual does not engage in the practice of psychology.

(2) This part does not prohibit an individual approved by the state department of education from using the title "school psychologist" and engaging in those duties and activities pertinent to employment by a public or private elementary or secondary school.

(3) This part does not prohibit an individual employed by a regionally accredited college or university and involved in research or the teaching of psychology from performing those duties for which he or she is employed by that institution.

(4) This part does not prohibit a certified, licensed, registered, or otherwise statutorily recognized member of any profession including a lawyer, social worker, school counselor or marriage counselor from practicing his or her profession as authorized by law.

(5) This part does not prohibit a clergyman, professional educator, or professional counselor, including an alcoholism or drug abuse counselor, whose practice may include preventive techniques, counseling techniques, or behavior modification techniques from practicing his or her profession consistent with his or her training and with a code of ethics for that respective profession.

(6) This part shall not apply to a participant or employee in a program licensed under part 62 or self-help, peer counseling, or support services provided by a nonprofit organization.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.18221 Michigan board of psychology; creation; membership; terms.

Sec. 18221.

(1) The Michigan board of psychology is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 psychologists, including at least 1 nondoctoral psychologist, and 4 public members. Section 1212 does not apply to this board.

(2) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 395, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.18223 Rules as to licensing requirements; limited license; renewal; supervised postgraduate experience required; temporary license.

Sec. 18223.

(1) The department, in consultation with the board, shall promulgate rules requiring that to be granted a license under this part, except as provided in subsection (2), an individual must meet both of the following requirements:

(a) Have been granted a doctoral degree in psychology, or a doctoral degree in a closely related field, from a doctoral degree program that meets all of the following requirements:

(i) Is offered by a regionally accredited or other college, university, or institution approved by the board, and includes education and training appropriate to the practice of psychology.

(ii) Has obtained the Association of State and Provincial Psychology Boards' national register designation, has been accredited by the American Psychological Association or the Canadian Psychological Association, or has

obtained a similar designation from or been accredited by an entity approved by the board. However, a program that is in the process of obtaining the designation or becoming accredited as required in this subparagraph before August 1, 2011, and that obtains the designation or becomes accredited on or before August 31, 2020, meets the requirements of this subparagraph.

(b) Have not less than 1 year of postdoctoral experience in the practice of psychology in an organized health care setting or other arrangement, as established by the board.

(2) In addition to section 16182, the board shall grant a limited license to an individual granted a master's degree in psychology from a regionally accredited college, or university, or institution approved by the board, if the individual has education, training, and experience appropriate to the practice of psychology, as established by the board. An individual who applies for an initial limited license under this subsection before March 31, 2018 is not required to take an examination that is approved by the board to be granted a limited license under this part if the individual was granted a master's degree in psychology after January 1, 2007 but before June 30, 2010 from the college, university, or institution described in this subsection, the individual has continuously held the temporary license described in this section since it was initially granted by the board, and the disciplinary subcommittee has not imposed a sanction against the individual while holding the temporary license described in this section. Except for duties performed as an employee of a governmental entity or of a nonprofit organization serving benevolent and charitable purposes, the board shall place 2 limitations on a license granted to an individual under this subsection. The limitations must require supervision by a psychologist who has a license other than a limited license and must prohibit advertising or other representation to the public that will lead the public to believe the individual is engaging in the practice of psychology. A limited license granted under this subsection is renewable under part 161. An individual who is applying for a limited license under this subsection must have 1 year of supervised postgraduate experience in an organized health care setting or other arrangement, as established by the board. The individual must be supervised by a psychologist who has a license other than a limited license, or if a psychologist who has a license other than a limited license is not available, by a psychologist who has at least a master's degree in psychology and at least 3 years of experience in the practice of psychology or by any other individual approved by the board.

(3) The board shall grant a temporary license to an individual described in subsection (2) for the purpose of obtaining the 1 year of postgraduate experience described in that subsection. Beginning on March 31, 2018, a temporary license granted under this subsection is valid for 24 months and may be renewed for 1 additional 24-month term. If an individual described in subsection (2) was granted a temporary license by the board before March 31, 2018, his or her temporary license may be renewed for 1 additional 24-month term.

(4) The board shall grant a temporary license to an individual who is enrolled in a doctoral degree program that meets the requirements of subsection (1). Beginning on March 31, 2018, a temporary license granted under this subsection is valid for 24 months and may be renewed for 3 additional 24-month terms. If an individual enrolled in a doctoral program that meets the requirements of subsection (1) was granted a temporary license by the board before March 31, 2018, his or her temporary license may be renewed for 3 additional 24-month terms.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1980, Act 265, Imd. Eff. Sept. 29, 1980 ;-- Am. 1982, Act 468, Imd. Eff. Dec. 30, 1982 ;-- Am. 1986, Act 174, Imd. Eff. July 7, 1986 ;-- Am. 2010, Act 121, Imd. Eff. July 13, 2010 ;-- Am. 2014, Act 385, Imd. Eff. Dec. 18, 2014 ;-- Am. 2018, Act 24, Imd. Eff. Feb. 14, 2018

Compiler's Notes: Section 3 of Act 174 of 1986 provides: â€œThis amendatory act shall only apply to contested cases filed on or after July 1, 1986.â€

Popular Name: Act 368

333.18233 Renewal of license; evidence required; completion of hours or courses in pain and symptom management as continuing education; rules.

Sec. 18233.

(1) In addition to the requirements of part 161, the board may require a licensee seeking renewal of a license to furnish the board with satisfactory evidence that during the 2 years immediately preceding application for renewal the licensee has attended continuing education courses or programs approved by the board totaling not less than a number of hours established by rule of the board in subjects related to the practice of psychology and designed to further educate licensees.

(2) As required under section 16204, the board shall promulgate rules requiring each applicant for license renewal to complete as part of the continuing education requirement of subsection (1) an appropriate number of hours or courses in pain and symptom management.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1986, Act 290, Imd. Eff. Dec. 22, 1986 ;-- Am. 1994, Act 234, Imd. Eff. June 30, 1994
Popular Name: Act 368

333.18237 Confidential information; disclosure; waiver.

Sec. 18237.

A psychologist licensed or allowed to use that title under this part or an individual under his or her supervision cannot be compelled to disclose confidential information acquired from an individual consulting the psychologist in his or her professional capacity if the information is necessary to enable the psychologist to render services. Information may be disclosed with the consent of the individual consulting the psychologist, or if the individual consulting the psychologist is a minor, with the consent of the minor's guardian, pursuant to section 16222 if the psychologist reasonably believes it is necessary to disclose the information to comply with section 16222, or under section 16281. In a contest on the admission of a deceased individual's will to probate, an heir at law of the decedent, whether a proponent or contestant of the will, and the personal representative of the decedent may waive the privilege created by this section.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 1998, Act 496, Eff. Mar. 1, 1999
Popular Name: Act 368

PART 182A
APPLIED BEHAVIOR ANALYSIS

333.18251 Definitions; principles of construction.

Sec. 18251.

(1) As used in this part:

(a) "Applied behavior analysis services" means services provided to clients that are included in the practice of applied behavior analysis.

(b) "Assistant behavior analyst" means an individual who is licensed or otherwise authorized under this part to engage in practice as an assistant behavior analyst.

(c) "BACB" means the Behavior Analyst Certification Board, a nonprofit corporation that is exempt from taxation under section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, or its successor, as determined by the board.

(d) "Behavior analyst" means an individual who is licensed or otherwise authorized under this part to engage in the practice of applied behavior analysis.

(e) "Behavior technician" means an individual who is not licensed or authorized to practice a profession under this part and who delivers applied behavior analysis services under the delegation and supervision of a behavior analyst and meets the requirements of section 18263.

(f) "Listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(g) "Other certification board" means a nationally recognized behavior analysis certification board approved by the department by rule.

(h) "Practice as an assistant behavior analyst" means the practice of applied behavior analysis under the supervision of a behavior analyst.

(i) "Practice of applied behavior analysis" means the design, implementation, and evaluation of instructional and environmental modifications to produce socially significant improvements in human behavior. All of the following apply for purposes of this subdivision:

(i) Practice of applied behavior analysis includes all of the following:

(A) The empirical identification of functional relations between behavior and environmental factors, known as functional assessment and analysis.

(B) Applied behavior analysis interventions that are based on scientific research and the direct observation and measurement of behavior and the environment.

(C) The utilization of contextual factors, motivating operations, antecedent stimuli, or positive reinforcement.

(D) The utilization of other consequences to help individuals develop new behaviors, increase or decrease

existing behaviors, and emit behaviors under specific environmental conditions.

(ii) The practice of applied behavior analysis does not include any of the following:

(A) The practice of medicine, the practice of osteopathic medicine and surgery, or medical diagnosis or treatment.

(B) The practice of speech-language pathology.

(C) The practice of physical therapy.

(D) The practice of occupational therapy.

(E) Psychological testing, including standardized testing for intelligence or personality.

(F) Diagnosis of a mental or physical impairment.

(G) The practice of neuropsychology, psychotherapy, cognitive therapy, sex therapy, psychoanalysis, hypnotherapy, or counseling as treatment modalities.

(j) "Rules" means rules promulgated by the department in consultation with the board under this part.

(2) 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.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017
Popular Name: Act 368

333.18253 Use of title or similar words or letters; practice of applied behavior analysis or assistant behavior analysis; licensure required; exceptions; issuance of license.

Sec. 18253.

(1) Beginning 1 year after the effective date of the rules promulgated under sections 18257 and 18259 for licensure under this part, an individual shall not use the titles "licensed behavior analyst", "l.b.a.", "licensed assistant behavior analyst", "l.a.b.a.", or similar words or letters that indicate that he or she is licensed as a behavior analyst or assistant behavior analyst unless the individual is licensed or otherwise authorized under this part. The department shall provide for a 4-year license cycle.

(2) Beginning 1 year after the effective date of the rules promulgated under sections 18257 and 18259 for licensure under this part, an individual shall not engage in the practice of applied behavior analysis or practice as an assistant behavior analyst unless licensed or otherwise authorized under this article.

(3) Subsection (2) does not prevent any of the following:

(a) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a behavior analyst or assistant behavior analyst.

(b) A behavior technician from implementing a care plan under the delegation and supervision of a behavior analyst.

(c) A family member from providing a follow-up home program designed by a behavior analyst.

(d) A school-based paraprofessional from implementing an applied behavior analysis intervention under the delegation and supervision of a licensed professional described in subdivision (e) or an authorized professional described in subdivision (f).

(e) An individual authorized to practice psychology in the state under part 182 from providing services included in the practice of applied behavior analysis, if the behavior analysis services provided by that individual are within his or her education, training, and experience.

(f) An individual who holds a license, certificate, registration, or other authorization from this state that authorizes him or her to perform 1 or more of the services included in the practice of applied behavior analysis, so long as the individual does not do any of the following:

(i) Perform any services included in the practice of applied behavior analysis that are not within the scope of practice of his or her profession or occupation.

(ii) Perform any services included in the practice of applied behavior analysis that he or she is not qualified by his or her education, training, and experience to perform.

(iii) Represent that he or she is a behavior analyst or assistant behavior analyst.

(g) An individual who is a matriculated student at a nationally accredited university approved in rules or who is a postdoctoral fellow from performing activities that are considered under this part to be the practice of applied behavior analysis if the activities are part of a defined behavior analysis program of study or practicum approved in rules and if the student or fellow is directly supervised by an individual who is any of the following:

(i) Licensed as a behavior analyst under this part.

(ii) Appointed as the instructor of a course sequence approved by the BACB or other certification board.

(h) An individual who is not licensed under this part from pursuing experience in behavior analysis compatible with the BACB's experience requirements for an applied behavior analysis credential, if the experience is supervised by an individual who is licensed as a behavior analyst under this part.

(i) An individual from performing activities that are considered under this part to be the practice of applied behavior analysis if the activities are with nonhuman or nonpatient clients or consumers. Individuals described in this subdivision include, but are not limited to, applied animal behaviorists and practitioners of organizational behavior management.

(4) The department shall issue a license as a behavior analyst to an individual who on or before the effective date of this part had a credential as a board certified behavior analyst, or conferred for applied behavior analysis by the BACB, and who applies for licensure as a behavior analyst by 1 year after the effective date of the rules promulgated under section 18257.

(5) The department shall issue a license as an assistant behavior analyst to an individual who on or before the effective date of this part had a credential as a board certified assistant behavior analyst, conferred for applied behavior analysis by the BACB, who is under the supervision of a behavior analyst, and who applies for licensure as an assistant behavior analyst by 1 year after the effective date of the rules promulgated under section 18259.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017
Popular Name: Act 368

333.18255 Michigan board of behavior analysts; creation; membership; terms.

Sec. 18255.

(1) The Michigan board of behavior analysts is created in the department and consists of the following 9 voting members:

(a) Four behavior analysts. The 4 members appointed under this subdivision shall be behavior analysts who are licensed under this part, except that the first 4 members appointed to the board under this subdivision may be board-certified behavior analysts who are not licensed under this part. Members described in this subdivision shall be appointed in a manner that ensures that 3 of the members serving on the board are engaged in providing clinical services and 1 is engaged in providing applied behavior analysis services to the Medicaid population in addition to providing clinical services. As used in this subdivision:

(i) "Medicaid" means that term as defined in section 2701.

(ii) "Medicaid population" means those individuals who reside in this state and who are eligible for Medicaid.

(b) One individual who is affiliated with a university in this state and provides instruction or conducts research in applied behavior analysis.

(c) One assistant behavior analyst.

(d) One physician who is licensed under part 170 or 175 and works with patients with autism spectrum disorders or brain injuries.

(e) Two public members.

(2) The terms of office of individual members of the board, except those appointed to fill vacancies, expire 4 years after the appointment on December 31 of the year in which the term expires. However, for the members first appointed to the board under subsection (1), 3 must serve for 2 years, 3 must serve for 3 years, and 3 must serve for 4 years.

History: Add. 2016, Act 404, Eff. Apr. 3, 2017
Popular Name: Act 368

333.18257 Rules; minimum standards for licensure as behavior analyst.

Sec. 18257.

By 2 years after the effective date of this part, the department, in consultation with the board, shall promulgate rules that establish the minimum standards for licensure as a behavior analyst. For purposes of this section, the department may adopt in its rules the professional standards, in whole or in part, issued by the BACB or any other

nationally recognized professional association as its standards under this section.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017
Popular Name: Act 368

333.18259 Rules; minimum standards for licensure as assistant behavior analyst.

Sec. 18259.

By 2 years after the effective date of this part, the department, in consultation with the board, shall promulgate rules that establish the minimum standards for licensure as an assistant behavior analyst. For purposes of this section, the department may adopt in its rules the professional standards, in whole or in part, issued by the BACB or any other nationally recognized professional association as its standards under this section.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017
Popular Name: Act 368

333.18261 Rules; conviction of listed offense; denial or revocation of license; hearing.

Sec. 18261.

(1) Notwithstanding sections 16221, 16226, and 16245, the department shall include in rules promulgated under sections 18257 and 18259 that an application for a license under this part will be denied if the applicant's criminal history check required by section 16174 reveals that he or she was convicted of a listed offense, and that a licensee's license will be permanently revoked if he or she is convicted of a listed offense while licensed under this part.

(2) The department shall provide an opportunity for a hearing under section 16232 to an individual whose application is denied or whose license is permanently revoked under the rules promulgated under subsection (1).

History: Add. 2016, Act 403, Eff. Apr. 3, 2017
Popular Name: Act 368

333.18263 Behavior technician; requirements; use of words, titles, or letters; "convicted" defined.

Sec. 18263.

(1) An individual shall not act as a behavior technician in this state if any of the following apply:

(a) Sanctions have been imposed against the individual by a licensure, registration, specialty licensure, or specialty certification board of any other state, of the United States Military, of the federal government, or of any other country based on grounds that are substantially similar to this article or a rule promulgated under this article, and the sanctions are in force at the time the individual is to deliver applied behavior analysis services.

(b) Beginning April 3, 2020, he or she has not completed a training program that is based on the BACB's registered behavior technician task list.

(c) He or she has been convicted of any of the following:

(i) A relevant crime described under 42 USC 1320a-7(a).

(ii) Any of the following felonies, an attempt or conspiracy to commit any of those felonies, or any other state or federal crime that is similar to the felonies described in this subparagraph, other than a felony for a relevant crime described under 42 USC 1320a-7(a), unless 15 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction before the date that he or she delivers applied behavior analysis services:

(A) A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.

(B) A felony involving cruelty or torture.

(C) A felony under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(D) A felony involving criminal sexual conduct.

(E) A felony involving abuse or neglect.

(F) A felony involving the use of a firearm or dangerous weapon.

(G) A felony involving the diversion or adulteration of a prescription drug or other medications.

(iii) A felony or an attempt or conspiracy to commit a felony, other than a felony for a relevant crime described under 42 USC 1320a-7(a) or a felony described under subparagraph (ii), unless 10 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction before the date that he or she delivers applied behavior analysis services.

(iv) Any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subparagraph, within the 10 years immediately preceding the date that he or she delivers applied behavior analysis services:

(A) A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.

(B) A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(C) A misdemeanor involving criminal sexual conduct.

(D) A misdemeanor involving cruelty or torture unless otherwise provided under subparagraph (v).

(E) A misdemeanor involving abuse or neglect.

(v) Any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subparagraph, within the 5 years immediately preceding the date that he or she delivers applied behavior analysis services:

(A) A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.

(B) A misdemeanor involving home invasion.

(C) A misdemeanor involving embezzlement.

(D) A misdemeanor involving negligent homicide or a violation of section 601d(1) of the Michigan vehicle code, 1949 PA 300, MCL 257.601d.

(E) A misdemeanor involving larceny unless otherwise provided under subparagraph (vii).

(F) A misdemeanor of retail fraud in the second degree unless otherwise provided under subparagraph (vii).

(G) Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under subparagraphs (iv), (vi), or (vii).

(vi) Any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subparagraph, within the 3 years immediately preceding the date that he or she delivers applied behavior analysis services:

(A) A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.

(B) A misdemeanor of retail fraud in the third degree unless otherwise provided under subparagraph (vii).

(C) A misdemeanor under part 74 unless otherwise provided under subparagraph (vii).

(vii) Any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7(a), or a state or federal crime that is substantially similar to the misdemeanors described in this subparagraph, within the year immediately preceding the date that he or she delivers applied behavior analysis services:

(A) A misdemeanor under part 74 if the individual, at the time of conviction, is under the age of 18.

(B) A misdemeanor for larceny or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.

(d) He or she is the subject of an order or disposition under section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(e) He or she engages in conduct that becomes the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency under an investigation conducted in accordance with 42 USC 1395i-3 or 1396r.

(2) A behavior technician shall not use words, titles, or letters that indicate that he or she is a behavior analyst or an assistant behavior analyst or that he or she is engaging in the practice of applied behavior analysis or practice as an assistant behavior analyst.

(3) As used in this section, "convicted" means either of the following:

(a) For a crime that is not a relevant crime described under 42 USC 1320a-7(a), a final conviction, the payment of a fine, a plea of guilty or nolo contendere if accepted by the court, or a finding of guilt for a criminal law violation or a juvenile adjudication or disposition by the juvenile division of probate court or family division of circuit court for a violation that if committed by an adult would be a crime.

(b) For a relevant crime described under 42 USC 1320a-7(a), that term as defined in 42 USC 1320a-7.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017 ;-- Am. 2020, Act 19, Imd. Eff. Jan. 27, 2020
Popular Name: Act 368

333.18265 Rules; license renewal; requirements.

Sec. 18265.

In addition to the requirements of part 161, the department, in consultation with the board, may promulgate rules to require a licensee seeking renewal to do 1 of the following:

(a) For a licensee seeking renewal of his or her behavior analyst license, furnish evidence that, during the licensing period immediately preceding the application for renewal, he or she is current on his or her certification by the Behavior Analyst Certification Board or other certification board as a board certified behavior analyst.

(b) For a licensee seeking renewal of his or her assistant behavior analyst license, furnish evidence that, during the licensing period immediately preceding the application for renewal, he or she is current on his or her certification by the BACB or other certification board as a board certified assistant behavior analyst and that he or she is practicing under the supervision of a licensed behavior analyst.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017
Popular Name: Act 368

333.18267 Third party reimbursement or mandated worker's compensation benefits.

Sec. 18267.

This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as a behavior analyst or an assistant behavior analyst under this part.

History: Add. 2016, Act 403, Eff. Apr. 3, 2017
Popular Name: Act 368

Part 183
OCCUPATIONAL THERAPISTS

333.18301 Definitions; principles of construction.

Sec. 18301.

(1) As used in this part:

(a) "Occupational therapy assistant" means an individual licensed under this article to engage in practice as an occupational therapy assistant.

(b) "Occupational therapist" means an individual licensed under this article to engage in the practice of occupational therapy.

(c) "Occupational therapy services" means those services provided to promote health and wellness, prevent

disability, preserve functional capabilities, prevent barriers, and enable or improve performance in everyday activities, including, but not limited to, the following:

(i) Establishment, remediation, or restoration of a skill or ability that is impaired or not yet developed.

(ii) Compensation, modification, or adaptation of a person, activity, or environment.

(iii) Evaluation of factors that affect activities of daily living, instrumental activities of daily living, and other activities relating to education, work, play, leisure, and social participation. Those factors include, but are not limited to, body functions, body structure, habits, routines, role performance, behavior patterns, sensory motor skills, cognitive skills, communication and interaction skills, and cultural, physical, psychosocial, spiritual, developmental, environmental, and socioeconomic contexts and activities that affect performance.

(iv) Interventions and procedures, including, but not limited to, any of the following:

(A) Task analysis and therapeutic use of occupations, exercises, and activities.

(B) Training in self-care, self-management, home management, and community or work reintegration.

(C) Development remediation, or compensation of client factors such as body functions and body structure.

(D) Education and training.

(E) Care coordination, case management, transition, and consultative services.

(F) Modification of environments and adaptation processes such as the application of ergonomic and safety principles.

(G) Assessment, design, fabrication, application, fitting, and training in rehabilitative and assistive technology, adaptive devices, and low temperature orthotic devices, and training in the use of prosthetic devices. For the purposes of this sub-subparagraph, the design and fabrication of low temperature orthotic devices does not include permanent orthotics.

(H) Assessment, recommendation, and training in techniques to enhance safety, functional mobility, and community mobility such as wheelchair management and mobility.

(I) Management of feeding, eating, and swallowing.

(J) Application of physical agent modalities and use of a range of specific therapeutic procedures, including, but not limited to, techniques to enhance sensory-motor, perceptual, and cognitive processing, manual therapy techniques, and adjunctive and preparatory activities.

(K) Providing vision therapy services or low vision rehabilitation services, if those services are provided pursuant to a referral or prescription from, or under the supervision or comanagement of, a physician licensed under part 170 or 175 or an optometrist licensed under part 174.

(d) "Practice as an occupational therapy assistant" means the practice of occupational therapy under the supervision of an occupational therapist licensed under this article.

(e) "Practice of occupational therapy" means the therapeutic use of everyday life occupations and occupational therapy services to aid individuals or groups to participate in meaningful roles and situations in the home, school, workplace, community, and other settings, to promote health and wellness through research and practice, and to serve those individuals or groups who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation, or participation restriction. The practice of occupational therapy addresses the physical, cognitive, psychosocial, sensory, and other aspects of performance in a variety of contexts to support engagement in everyday life activities that affect a person's health, well-being, and quality of life throughout his or her life span. The practice of occupational therapy does not include any of the following:

(i) The practice of medicine or osteopathic medicine and surgery or medical diagnosis or treatment.

(ii) The practice of physical therapy.

(iii) The practice of optometry.

(2) 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.

History: Add. 1988, Act 473, Imd. Eff. Dec. 28, 1988 ;-- Am. 2008, Act 523, Imd. Eff. Jan. 13, 2009

Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Popular Name: Act 368

333.18303 Promulgation of rules; restricted use of words or titles; practice of occupational therapy or occupation therapy assistant; license required; exceptions.

Sec. 18303.

(1) After the rules described in sections 18307 and 18309 are promulgated for licensure under this article, an

individual shall not use the titles "occupational therapist", "o.t.", "occupational therapist licensed", "o.t.l.", "occupational therapist registered", "o.t.r.", "occupational therapist registered licensed", "o.t.r.l.", "certified occupational therapy assistant", "c.o.t.a.", "certified occupational therapy assistant licensed", "c.o.t.a.l.", "occupational therapy assistant", "o.t.a.", "occupational therapy assistant licensed", "o.t.a.l.", or similar words which indicate that he or she is licensed as an occupational therapist or occupational therapy assistant unless the individual is licensed under this article.

(2) After the rules described in sections 18307 and 18309 are promulgated for licensure under this part, an individual shall not engage in the practice of occupational therapy or the practice as an occupational therapy assistant unless licensed or otherwise authorized by this article.

(3) Subsection (2) does not prevent any of the following:

(a) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a licensed occupational therapist or occupational therapy assistant.

(b) An individual licensed or registered under any other part or act from performing activities that are considered occupational therapy services if those activities are within the individual's scope of practice and if the individual does not use the titles protected under subsection (1).

(c) An orthotist or prosthetist from providing services consistent with his or her training in orthotics or prosthetics if he or she is certified by the American board for certification in orthotics, prosthetics and pedorthics and he or she does not represent or hold himself or herself out to be a licensed occupational therapist or occupational therapy assistant.

(d) A parks and recreation professional who is directly employed by a local unit of government or a therapeutic recreation specialist certified by the national council for therapeutic recreation certification from providing services if he or she does not represent or hold himself or herself out to be a licensed occupational therapist or occupational therapy assistant.

History: Add. 1988, Act 473, Imd. Eff. Dec. 28, 1988 ;-- Am. 2008, Act 523, Imd. Eff. Jan. 13, 2009
Popular Name: Act 368

333.18305 Michigan board of occupational therapists; creation; membership; terms.

Sec. 18305.

(1) The Michigan board of occupational therapists is created in the department and shall consist of the following 9 voting members who shall meet the requirements of part 161: 5 licensed occupational therapists and 4 public members, 1 of whom shall be a physician licensed under part 170 or 175.

(2) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after the appointment on December 31 of the year in which the term expires.

History: Add. 1988, Act 473, Imd. Eff. Dec. 28, 1988 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 394, Imd. Eff. Sept. 27, 2006 ;-- Am. 2008, Act 523, Imd. Eff. Jan. 13, 2009
Popular Name: Act 368

333.18307 Licensure as occupational therapist; rules.

Sec. 18307.

The board, in consultation with the department, shall promulgate rules under section 16145 setting forth the minimum standards for licensure as an occupational therapist. For purposes of this section, the professional standards issued by the American occupational therapy association or any other recognized trade association may be adopted by the board. The board shall not promulgate rules under this section that diminish competition or exceed the minimum level of regulation necessary to protect the public.

History: Add. 1988, Act 473, Imd. Eff. Dec. 28, 1988 ;-- Am. 2008, Act 523, Imd. Eff. Jan. 13, 2009
Popular Name: Act 368

333.18309 Licensure as occupational therapy assistant; rules.

Sec. 18309.

The board, in consultation with the department, shall promulgate rules under section 16145 setting forth the minimum standards for licensure as an occupational therapy assistant. For purposes of this section, the professional standards issued by the American occupational therapy association or any other recognized trade association may be adopted by the board. The board shall not promulgate rules under this section that diminish competition or exceed the minimum level of regulation necessary to protect the public.

History: Add. 1988, Act 473, Imd. Eff. Dec. 28, 1988 ;-- Am. 2008, Act 523, Imd. Eff. Jan. 13, 2009
Popular Name: Act 368

333.18311 Assistance.

Sec. 18311.

Pursuant to section 16143, the department may contract with other state agencies, private agencies, organizations, and consultants to assist the board in carrying out its functions.

History: Add. 1988, Act 473, Imd. Eff. Dec. 28, 1988
Popular Name: Act 368

333.18313 Continuing education or competence requirements; rules.

Sec. 18313.

(1) Beginning the license renewal cycle after the effective date of the rules promulgated under this part, an individual licensed under this article shall meet the continuing education or competence requirements of this section when renewing his or her license.

(2) In addition to the requirements of part 161, the board, in consultation with the department, may promulgate rules to require a licensee seeking renewal to furnish evidence that, during the licensing period immediately preceding the application for renewal, the licensee completed an appropriate number of hours of continuing education courses or continuing competence activities related to the practice of occupational therapy and designed to further educate and maintain competence.

History: Add. 2008, Act 523, Imd. Eff. Jan. 13, 2009
Popular Name: Act 368

333.18315 Third party reimbursement or mandated worker's compensation benefits not required.

Sec. 18315.

This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as an occupational therapist or an occupational therapist assistant under this article.

History: Add. 2008, Act 523, Imd. Eff. Jan. 13, 2009
Popular Name: Act 368

PART 183A.
DIETETICS AND NUTRITION

333.18351 Definitions.

Sec. 18351.

(1) As used in this part:

(a) "Dietitian nutritionist" means an individual who is licensed or otherwise authorized to engage in the practice of medical nutrition therapy under this article.

(b) "General nonmedical nutrition information" means information on any of the following:

(i) Principles of human nutrition and food preparation.

(ii) Principles of self-care and a healthy relationship with food.

(iii) The essential nutrients needed by the human body.

(iv) The recommended amounts of essential nutrients in the human body.

(v) The actions of nutrients in the human body.

(vi) The effects of deficiencies or excesses of nutrients in the human body.

(vii) Foods, herbs, and dietary supplements that are good sources of essential nutrients in the human body.

(c) "Medical weight control" means the practice of medical nutrition therapy for the purpose of reducing, maintaining, or gaining weight.

(d) "Nutrition assessment" means the ongoing, dynamic, and systematic process of obtaining, verifying, and interpreting biochemical, anthropometric, physical, nutrigenomic, and dietary data to make decisions about the nature and cause of nutrition-related problems and making recommendations, including recommendations on enteral and parenteral nutrition. The collection of data does not, by itself, constitute nutrition assessment.

(e) "Nutrition care services" means any part or all of the following services within a systematic process:

(i) Assessing and evaluating the nutritional needs of individuals and groups and determining resources and constraints in the practice setting, including ordering laboratory tests to check and track nutrition status, creating dietary plans and orders, and monitoring the effectiveness thereof.

(ii) Interpreting anthropometric, biochemical, clinical, and dietary data in acute and chronic disease states and recommending or ordering nutrient needs based on dietary data, including enteral and parenteral nutrition.

(iii) Establishing priorities, goals, and objectives that meet nutritional needs and that are consistent with available resources and constraints.

(iv) Providing nutrition counseling in health and disease, including food and nutrient counseling and counseling on food and prescription drug interactions.

(v) Developing, implementing, and managing nutrition care systems.

(vi) Evaluating, making changes in, and maintaining appropriate standards of quality in food and nutrition services.

(vii) Ordering therapeutic diets.

(f) "Nutrition counseling" means a supportive process, characterized by a collaborative counselor-patient or counselor-client relationship with individuals or groups, to establish food and nutrition priorities, goals, and individualized action plans and general physical activity guidance that acknowledge and foster responsibility for self-care to treat or manage an existing disease or medical condition or to promote health and wellness.

(g) "Nutrition diagnosis" means identifying and labeling nutritional problems managed and treated by a dietitian nutritionist. Nutrition diagnosis does not include the medical differential diagnosis of the health status of an individual.

(h) "Nutrition intervention" means purposefully planned actions and nutrition counseling intended to positively change a nutrition-related behavior, risk factor, environmental condition, or aspect of the health status for an individual.

(i) "Nutrition monitoring and evaluation" means identifying patient outcomes relevant to a nutrition diagnosis and comparing the outcomes with the patient's previous health status, intervention goals, or reference standards to determine the progress made in achieving desired outcomes of nutrition care and whether nutrition intervention should be continued or revised.

(j) "Patient" means an individual recipient of the practice of medical nutrition therapy, whether in the outpatient, inpatient, or nonclinical setting.

(k) "Practice of dietetics and nutrition" means the integration and application of scientific principles derived from

the study of food, nutrition, biochemistry, metabolism, nutrigenomics, physiology, food systems and management, and from behavioral and social sciences in achieving and maintaining health throughout the lifespan and in providing nutrition care services, including the practice of medical nutrition therapy, for the prevention, management, and treatment of diseases or medical conditions. Practice of dietetics and nutrition does not include the medical differential diagnosis of the health status of an individual but does include each of the following:

(i) Nutrition assessment.

(ii) Nutrition diagnosis.

(iii) Nutrition support.

(iv) Dietary and nutrition counseling and education.

(v) Nutrition intervention.

(vi) Nutrition monitoring and evaluation.

(vii) Development and administration of nutrition care standards and systems.

(l) "Practice of medical nutrition therapy" means the provision of nutrition care services for the treatment or management of diseases or medical conditions.

(m) "Qualified supervisor" means an individual meeting the requirements described in section 18360.

(n) "Registered dietitian nutritionist" means an individual who is credentialed by the Commission on Dietetic Registration or its successor organization as a registered dietitian or registered dietitian nutritionist.

(o) "Therapeutic diet" means a diet intervention prescribed by a physician, or another health professional licensed under this article, that provides food or nutrients via oral, enteral, and parenteral routes as part of treatment of a disease or clinical condition to modify, eliminate, decrease, or increase identified micronutrients and macronutrients in the diet, or to provide mechanically altered food when indicated.

(p) "Unrestricted practice of medical nutrition therapy" means the application of dietetics and nutrition knowledge and skills by an individual who regulates and is responsible for the individual's own practice or treatment procedures.

(2) 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.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025
Compiler's Notes: Former MCL 333.18351, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.
Popular Name: Act 368

333.18353 Practice of medical nutrition therapy; license required; restricted use of words, titles, or letters; exemptions.

Sec. 18353.

(1) Beginning 18 months after the effective date of the initial rules promulgated under this part, an individual shall not engage in the practice of medical nutrition therapy unless the individual is licensed or otherwise authorized under this article.

(2) Subject to subsection (3), beginning 18 months after the effective date of the initial rules promulgated under this part, the following words, titles, or letters or a combination of the following words, titles, or letters, with or without qualifying words or phrases, are restricted in use only to a dietitian nutritionist: "licensed dietitian nutritionist", "dietitian nutritionist", "dietitian", "dietician", "nutritionist", or "l.d.n.".

(3) An individual, including a registered dietitian nutritionist, may use any lawfully earned federally trademarked title, and the words, titles, or letters "registered dietitian", "registered dietitian nutritionist", "r.d.", or "r.d.n.".

(4) In addition to the exemptions from licensure under section 16171, subsection (1) does not prevent any of the following:

(a) A physician or other individual licensed under any other part or any other act from performing activities that are considered the practice of medical nutrition therapy if those activities are within the individual's scope of practice and the individual does not use the titles protected under subsection (2).

(b) An individual from doing any of the following if the individual, while doing any of the following, does not engage in the practice of medical nutrition therapy and the individual does not use the titles protected under subsection (2):

(i) Furnishing general nonmedical nutrition information.

(ii) Providing evaluation, guidance, information, and education on the use of food, food materials, or dietary

supplements.

(iii) Providing explanations to individuals or groups about food or food products, including dietary supplements.

(c) An individual from providing medical weight control for prediabetes or obesity to individuals under a program of instruction that is approved in writing by 1 of the following:

(i) A dietitian nutritionist.

(ii) A health professional licensed under this article whose scope of practice otherwise authorizes the health professional to provide nutrition care services for the treatment or management of the disease or medical condition for which medical weight control is being provided.

(d) An individual from providing delegated medical weight control services under a plan of care that is overseen by a health professional licensed under this article whose scope of practice otherwise authorizes the health professional to provide and delegate nutrition care services for the treatment or management of the disease or medical condition for which medical weight control is being provided.

(e) Subject to section 16215, an employee or other individual who is assisting a dietitian nutritionist and who is under the dietitian nutritionist's appropriate supervision from performing activities or functions that are delegated by the dietitian nutritionist, that are not discretionary, that do not require the exercise of professional judgment for their performance, and that are within the dietitian nutritionist's authority to perform.

(f) An individual from providing general nonmedical nutrition information, guidance, encouragement, individualized nutrition recommendations for wellness or primary prevention of chronic disease, behavior change management, coaching, assessments, services for weight management, or other nutrition care services if the services do not constitute the practice of medical nutrition therapy, the individual does not use the titles protected under subsection (2) or otherwise hold the individual out as a dietitian nutritionist or as a provider who engages in the practice of medical nutrition therapy, and the individual does not otherwise violate this act.

(g) Notwithstanding section 16171(a), an individual who is pursuing the educational requirements described in section 18357(1) from engaging in the practice of medical nutrition therapy, but only if all of the following apply:

(i) The individual is engaging in the practice of medical nutrition therapy as part of a course of study.

(ii) The individual does not engage in the unrestricted practice of medical nutrition therapy.

(iii) The individual is under the appropriate supervision of a qualified supervisor who assumes full professional responsibility for the work of the individual by verifying, directing, and authorizing the work.

(iv) The individual is designated by a title that clearly indicates the individual's status as a student, trainee, or supervisee.

(h) An individual from fulfilling supervised practice experience requirements to qualify for licensure as a dietitian nutritionist under this part but only if all of the following apply:

(i) The individual does not engage in the unrestricted practice of medical nutrition therapy.

(ii) The individual is designated by a title that clearly indicates the individual's status as a student, trainee, or supervisee.

(iii) The individual is appropriately supervised by a qualified supervisor who agrees to assume full professional responsibility for the work of the individual by verifying, directing, and authorizing the work.

(iv) The individual is engaging in the practice of medical nutrition therapy as part of a planned, continuous supervised practice experience.

(i) An individual from doing either of the following:

(i) Providing verbal nutrition information as an operator or employee of a health food store or business that sells health products, including, but not limited to, dietary supplements, food, herbs, or food materials.

(ii) Disseminating written nutrition information in connection with the marketing and distribution of the products described in subparagraph (i), or discussing the use of the products described in subparagraph (i), including explanations of their federally regulated label claims, any known drug-nutrient interactions, their role in various diets, or suggestions as how to best use and combine them.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025
Compiler's Notes: Former MCL 333.18353, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.
Popular Name: Act 368

333.18355 Michigan board of dietetics and nutrition; creation; membership; terms.

Sec. 18355.

(1) The Michigan board of dietetics and nutrition is created in the department and consists of the following voting members, each of whom must meet the requirements of part 161:

(a) Nine dietitian nutritionists.

(b) One physician licensed under part 170 or 175.

(c) Three public members.

(2) The terms of office of individual members of the board created under this part, except those appointed to fill vacancies, expire on June 30 of the year in which the term expires.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025
Compiler's Notes: Former MCL 333.18355, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.
Popular Name: Act 368

333.18357 License requirements; rules; exception.

Sec. 18357.

(1) Except as otherwise provided in subsection (4) and subject to section 18359, an individual seeking licensure as a dietitian nutritionist shall meet all of the following requirements:

(a) Hold a baccalaureate, master's, or doctoral degree from a college or university located in this state or another state that, at the time of graduation, was accredited in good standing by a United States institutional accrediting body for higher education recognized by the United States Department of Education and is approved by the department, or hold from a foreign educational institution an academic degree that is validated as equivalent by a credential evaluation agency recognized by the United States Department of Education and is approved by the department in consultation with the board.

(b) Have successfully completed a didactic program in dietetics accredited by the Accreditation Council for Education in Nutrition and Dietetics.

(c) Have successfully completed a planned, documented supervised practice experience in the practice of dietetics and nutrition fulfilling the competency requirements of a program in dietetics that is accredited by the Accreditation Council for Education in Nutrition and Dietetics or its successor organization. Except as otherwise provided in subsection (3), the practice experience described in this subdivision must include at least 1,000 hours under the supervision of a dietitian nutritionist or a registered dietitian nutritionist.

(d) Have successfully completed the registration examination for dietitian nutritionists administered by the Commission on Dietetic Registration or its successor organization.

(e) Is a registered dietitian nutritionist.

(2) The department in consultation with the board shall automatically approve an academic program described in subsection (1)(a) or an applicant's supervised practice experience described in subsection (1)(c) that is accredited by the Accreditation Council for Education in Nutrition and Dietetics or its successor organization.

(3) Any supervised practice experience described in subsection (1)(c) undertaken after the effective date of the initial rules promulgated under this part must be under the supervision of a qualified supervisor.

(4) An individual who, on the day before the effective date of the amendatory act that added this part, has and continues to be a registered dietitian nutritionist in good standing, is eligible for licensure as a dietitian nutritionist under this part. An individual seeking licensure under this subsection who maintains the credential conferred by the Commission on Dietetic Registration or a successor credential conferred by its successor organization shall first apply for a license on or before the expiration of 2 years after the effective date of the initial rules promulgated under this part. Subject to section 16201 and to the continuing education requirements described in section 18359, an individual who obtains a license under this subsection is eligible for renewal of that license if the individual continues to meet the requirements of this subsection.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025
Compiler's Notes: Former MCL 333.18357, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.
Popular Name: Act 368

333.18358 Dietitian nutritionist; permissible and prohibited conduct.

Sec. 18358.

All of the following apply to a dietitian nutritionist:

(a) The dietitian nutritionist may accept or transmit orders related to the practice of medical nutrition therapy from a referring health professional licensed under this article, as established in rules promulgated by the department in consultation with the board.

(b) The dietitian nutritionist shall provide nutrition care services using systematic, evidence-based problem solving methods of the nutrition care process to critically think and make decisions to address nutrition-related problems and provide safe, effective, quality dietetic and nutrition services for individuals in clinical and community settings.

(c) The dietitian nutritionist may accept or transmit verbal, delegated, or electronically transmitted orders from a referring health professional licensed under this article consistent with applicable laws and rules and any controlling facility or employer protocols established to implement the practice of medical nutrition therapy.

(d) The dietitian nutritionist may order patient diets, including oral therapeutic diets, and enteral and parenteral nutrition therapy of specialized intravenous solutions and associated nutrition-related services, including, but not limited to, placing nasogastric and nasoenteric feeding tubes, as part of a therapeutic diet.

(e) The dietitian nutritionist may conduct swallow screens and order medical laboratory tests related to a nutritional therapeutic treatment as provided by the laws of this state.

(f) The dietitian nutritionist may implement prescription drug dose adjustments for specific disease treatment protocols within the limits of the dietitian nutritionist's knowledge, skills, judgment, and informed clinical practice guidelines as indicated in a facility, medical staff, or medical director approved protocol and as approved by and under the delegation of a prescriber.

(g) In an outpatient setting, the dietitian nutritionist may implement prescription drug dose adjustments for specific disease treatment protocols within the limits of the dietitian nutritionist's knowledge, skills, and judgment and as approved by and under the delegation of a prescriber.

(h) The dietitian nutritionist may recommend or order dietary supplements or the discontinuance of unnecessary dietary supplements, consistent with any existing controlling protocols.

(i) The dietitian nutritionist may develop and manage food service operations for the management or treatment of diseases or medical conditions, including operations with the primary function of nutrition care or recommending, ordering, or providing therapeutic diets.

(j) Except as otherwise provided in this section, the dietitian nutritionist shall not prescribe or initiate drug treatment.

(k) The dietitian nutritionist shall not perform an act, task, or function within the practice of dietetics and nutrition that the dietitian nutritionist is not competent to perform.

(l) The dietitian nutritionist may coordinate nutrition care services between health facilities or agencies as that term is defined in section 20106, including, but not limited to, monitoring, documenting, and deciding how and when to address weight changes and nutrition issues.

(m) The dietitian nutritionist may oversee the nutritional aspects of patient care within a health facility or agency as that term is defined in section 20106.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025
Compiler's Notes: Former MCL 333.18358, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.
Popular Name: Act 368

333.18359 Continuing education requirements for license renewal; rules.

Sec. 18359.

(1) Notwithstanding the requirements of part 161, the department, in consultation with the board, shall by rule

prescribe continuing education requirements as a condition of license renewal. At a minimum, the board shall accept continuing education approved by and continuing education provided by entities approved by the Commission on Dietetic Registration or its successor organization and any other organization approved by the board. The department, in consultation with the board, may adopt any updates or amendments to the standards described in this subsection by rule.

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

(3) The department, in consultation with the board, may promulgate rules under section 16145 to supplement the requirements for licensure as a dietitian nutritionist under this part, including adopting updated standards of the Commission on Dietetic Registration or the Accreditation Council for Education in Nutrition and Dietetics or standards of any successor organizations of the organizations described in this subsection.

(4) The department in consultation with the board shall do both of the following:

(a) Promulgate rules to establish a code of ethics for licensees.

(b) Promulgate initial rules to implement this part for individuals seeking licensure as a dietitian nutritionist.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025
Compiler's Notes: Former MCL 333.18359, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.
Popular Name: Act 368

333.18360 Qualified supervisor; requirements; license; scope.

Sec. 18360.

(1) To qualify as a qualified supervisor for purposes of this part, subject to subsection (3), an individual must be 1 of the following:

(a) A registered dietitian nutritionist.

(b) A dietitian nutritionist.

(c) An individual licensed or certified in another state as a dietitian, dietitian nutritionist, nutritionist, or other qualified nutrition professional who is authorized by that state to engage in the practice of medical nutrition therapy.

(2) A qualified supervisor shall only supervise a clinical activity or nutrition care service for which the qualified supervisor is qualified and is authorized to perform.

(3) A qualified supervisor must be licensed under this article if the qualified supervisor is supervising an applicant who is engaging in the practice of medical nutrition therapy to an individual who is located in this state.

(4) A qualified supervisor shall comply with all of the following:

(a) Develop and carry out a program for advancing and optimizing the quality of care provided by a supervisee. The qualified supervisor and the supervisee shall identify and document goals for the supervised practice experience described in section 18357(1)(c), the assignment of clinical tasks as appropriate to the supervisee's evolving level of competence, the supervisee's relationship and access to the qualified supervisor, and an evaluation process for the supervisee's performance.

(b) Oversee the activities of, and accept responsibility for, the nutrition care services rendered by a supervisee, which includes a review of charts, records, and clinical notes of a supervisee on a regular basis and maintaining responsibility for the supervisee's clinical record keeping.

(c) At a minimum, be physically on-site and present where the supervisee is providing nutrition care services or be immediately and continuously available to the supervisee by means of 2-way real-time audiovisual technology that allows for the direct, contemporaneous interaction by sight and sound between the qualified supervisor and the supervisee. If the qualified supervisor assigns a nutrition care service to a supervisee that is to be provided in a setting where the qualified supervisor is not routinely present, the qualified supervisor shall ensure that the means and methods of supervision are adequate to ensure appropriate patient care, which may include synchronous videoconferencing, or another method of communication and oversight that is appropriate to the care setting and the education and experience of the supervisee.

(d) Limit the assignment of nutrition care services to those services that meet all of the following requirements:

(i) Are within the training and experience of a supervisee.

(ii) Are customary to the practice of the qualified supervisor.

(iii) Are within the parameters of the laws and rules of this state and any standards of the facility in which the qualified supervisor practices.

(e) Designate an alternate qualified supervisor to oversee a service provided in the event of and during a qualified supervisor's absence.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025
Popular Name: Act 368

333.18361 Temporary license; requirements.

Sec. 18361.

(1) Notwithstanding section 16181, the board may grant a temporary license to an applicant who meets all requirements for licensure under this part except an examination or other evaluation procedure. A temporary license granted under this section is automatically void if the applicant fails the examination or other evaluation procedure.

(2) The holder of a temporary license granted under this section shall practice under the supervision of a licensee who holds a license other than a limited license or temporary license.

(3) The holder of a temporary license issued under this section is subject to this part and the rules promulgated under this part, except for the requirements for licensure. The department may automatically void the temporary license if the applicant violates this subsection.

(4) A temporary license granted under this section is valid for 1 year and is not renewable. An individual may be granted only 1 temporary license under this section.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025
Compiler's Notes: Former MCL 333.18361, which pertained to licensure of dietitians and nutritionists, was repealed by Act 267 of 2014, Imd. Eff. July 1, 2014.
Popular Name: Act 368

333.18363 Repealed. 2014, Act 267, Imd. Eff. July 1, 2014.

Compiler's Notes: The repealed section pertained to licensure of dietitians and nutritionists.
Popular Name: Act 368

333.18367 Third-party reimbursement or worker's compensation benefits.

Sec. 18367.

This part does not require new or additional third-party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as a dietitian nutritionist under this part.

History: Add. 2024, Act 39, Eff. Apr. 2, 2025
Popular Name: Act 368

Part 184
SANITARIANS

333.18401 Definitions; principles of construction.

Sec. 18401.

(1) As used in this part:

(a) "Environmental health" means an area of activity dealing with the protection of human health through the management, control, and prevention of environmental factors that may adversely affect the health of individuals. Environmental health is concerned with the existence of substances, conditions, or facilities in quantities, of characteristics, and under conditions, circumstances, or duration that are or can be injurious to human health.

(b) "Registered sanitarian" means a sanitarian registered in accordance with this article.

(c) "Sanitarian" means an individual who has specialized education and experience in the physical, biological, and sanitary sciences as applied to the educational, investigational, and technical duties in the field of environmental health.

(2) 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.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2004, Act 308, Eff. Jan. 1, 2005
Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.For transfer of powers and duties of the board of sanitarians from the department of commerce to the director of the department of consumer and industry services, and abolishment of the board of sanitarians, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.
Popular Name: Act 368

333.18411 Use of titles or similar words.

Sec. 18411.

A person shall not use the titles "sanitarian", "registered sanitarian", "r.s.", or similar words which indicate that he, she, or it is a registered sanitarian unless the person is registered under this article.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2006, Act 408, Imd. Eff. Sept. 29, 2006
Popular Name: Act 368

333.18413 Conflict of interest; adoption by reference.

Sec. 18413.

(1) A registered sanitarian shall not engage in or have an interest in any work, project, or operation prejudicial to his or her professional interest and shall not engage in the practice of professional engineering as defined in section 2001 of the occupational code, 1980 PA 299, MCL 339.2001, unless the activity is consistent with that as defined in section 18401(c).

(2) The standards of the national environmental health association as they exist on the effective date of the amendatory act that added this subsection relative to qualifications, education, and examinations are adopted by reference. The department shall accept the certification by the national environmental health association of the successful completion of any education or examination for purposes of registration under this part.

(3) Notwithstanding section 16148, the department may by rule adopt any other or additional appropriate standards and may adopt any updates or amendments to the national environmental health association standards adopted under subsection (2).

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2004, Act 308, Eff. Jan. 1, 2005
Popular Name: Act 368

333.18421 Advisory committee; creation; purpose; appointment and terms of members.

Sec. 18421.

(1) There is created a 7-member advisory committee whose purpose is to make recommendations to the department relative to qualifications for registration, establishment of education and training standards, and actions regarding disciplinary proceedings. The members shall be appointed by the governor for a term of 3 years.

(2) The membership on the committee is as follows:

(a) Four members who are registered sanitarians.

(b) One member who represents the Michigan restaurant association or its successor organization.

(c) One member who represents the Michigan groundwater association or its successor organization.

(d) One member who represents the Michigan onsite wastewater recycling association or its successor organization.

(3) Of the initial members who are registered sanitarians, 1 member shall be appointed for a term of 1 year, 1 member shall be appointed for a term of 2 years, and 2 members shall be appointed for terms of 3 years.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2004, Act 308, Eff. Jan. 1, 2005
Compiler's Notes: For transfer of sanitarian advisory committee to department of community health by type III transfer, see E.R.O. No. 2009-10, compiled at MCL 333.26364.
Popular Name: Act 368

PART 185.
Social Work

333.18501 Definitions; scope.

Sec. 18501.

(1) As used in this part:

(a) "Health facility" means a health facility or agency licensed under article 17 or a hospital, psychiatric hospital, or psychiatric unit licensed under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(b) "Licensed bachelor's social worker" means an individual licensed under this article to engage in the practice of social work at the bachelor's level.

(c) "Licensed master's social worker" means an individual licensed under this article to engage in the practice of social work at the master's level.

(d) "Practice of medicine" means that term as defined in section 17001.

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

(f) "Practice of social work at the bachelor's level" means, subject to subsections (2) and (4), all of the following applied within the scope of social work values, ethics, principles, and skills:

(i) The application of social work theory, knowledge, methods, and ethics to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, or communities, with particular attention to the person-in-environment configuration.

(ii) Social work case management and casework, including assessments, planning, referral, and intervention with individuals, families, couples, groups, communities, or organizations within the context of social work values, ethics, principles, and skills.

(iii) Helping communities, organizations, individuals, or groups improve their social or health services by utilizing social work practice skills.

(iv) The administration of assessment checklists that do not require special training and that do not require interpretation.

(g) "Practice of social work at the master's level" means, subject to subsection (5), all of the following applied within the scope of social work values, ethics, principles, and advanced skills:

(i) The advanced application of the knowledge of human development and behavior and social, economic, and cultural institutions.

(ii) The advanced application of macro social work processes and systems to improve the social or health services of communities, groups, or organizations through planned interventions.

(iii) The application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. Treatment methods include the provision of advanced social work case management and casework and individual, couple, family, or group counseling and psychotherapy whether in private practice or other settings.

(h) "Social service technician" means an individual registered under this article who is specially trained to practice only under the supervision of a licensed master's social worker or a licensed bachelor's social worker.

(2) An individual who performs 1 or more of the functions described in subdivision (f)(i) through (iv) but not all of those functions is not considered engaged in the practice of social work at the bachelor's level.

(3) In addition to the definitions of 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.

(4) The practice of social work at the bachelor's level does not include the practice of medicine or the practice of osteopathic medicine and surgery, including, but not limited to, the prescribing of drugs, the administration of electroconvulsive therapy, the practice of psychotherapy, and other advanced clinical skills pursuant to section 18501(g)(iii) or the administration or interpretation of psychological tests, except as otherwise provided in subdivision (f)(iv).

(5) The practice of social work at the master's level does not include the practice of medicine or the practice of osteopathic medicine and surgery, including, but not limited to, the prescribing of drugs or administration of electroconvulsive therapy.

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000 ;-- Am. 2004, Act 61, Eff. July 1, 2005
Popular Name: Act 368

333.18503 Representation or use of title; prohibition.

Sec. 18503.

(1) An individual shall not represent that he or she is a social service technician or use a title including "social service technician" or an abbreviation of those terms or the letters "s.s.t." or similar words which would indicate that he or she is registered under this article unless the individual is registered in that capacity under this article.

(2) Only a licensed bachelor's social worker shall use the title "licensed bachelor's social worker", "social worker", or "l.b.s.w.". Only a licensed master's social worker shall use the title "licensed master's social worker", "social worker", or "l.m.s.w.".

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000 ;-- Am. 2004, Act 61, Eff. July 1, 2005
Popular Name: Act 368

333.18504 License required.

Sec. 18504.

(1) An individual shall not engage in the practice of social work at the bachelor's or master's level or use a title described in section 18503 unless licensed or otherwise allowed under this part.

(2) The department shall issue a license or registration under this part for a duration of 3 years.

History: Add. 2004, Act 61, Eff. July 1, 2005
Popular Name: Act 368

333.18505 Michigan board of social work; creation; membership; terms.

Sec. 18505.

(1) Subject to section 18515(2) and subsection (2), the Michigan board of social work is created in the department and consists of the following 9 voting members who meet the requirements of part 161:

(a) Until July 1, 2004, 4 certified social workers and 2 social workers who meet the requirements of section 16135(2). Beginning July 1, 2004, 6 individuals engaged primarily in the practice of social work.

(b) Three public members.

(2) For board members appointed on or after July 1, 2004, the 6 members appointed that are primarily engaged in the practice of social work shall be licensed under this part by July 1, 2008.

(3) The terms of office of the individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000 ;-- Am. 2004, Act 61, Imd. Eff. Apr. 12, 2004 ;-- Am. 2006, Act 393, Imd. Eff. Sept. 27, 2006
Popular Name: Act 368

333.18506 Postdegree experience; limited license.

Sec. 18506.

An individual who is granted a limited license under section 18509(2) to engage in the 2-year postdegree experience in the practice of social work at the bachelor's or master's level shall practice under the supervision of a licensed master's social worker and confine his or her practice to an agency, a health facility, an institution, or another entity approved by the board.

History: Add. 2004, Act 61, Eff. July 1, 2005

333.18506a Applicability of part.

Sec. 18506a.

(1) This part does not apply to any of the following:

(a) An individual who is engaged in a course of study leading to a degree in social work and participating in an internship or field placement supervised by a licensed master's social worker.

(b) An individual who is not licensed or otherwise authorized under this part to engage in the practice of social work at the bachelor's or master's level or registered as a social service technician who donates his or her services, other than psychotherapy services, to a charitable nonprofit organization so long as the individual does not hold himself or herself out to the public as a social worker licensed, registered, or otherwise authorized under this part.

(c) An ordained cleric or other religious practitioner if elements of section 18501(f) or (g) are incidental to his or her religious duties performed under the auspices or recognition of a church, denomination, religious association, or sect that has tax-exempt status pursuant to section 501(c)(3) of the internal revenue code of 1986, if he or she does not hold himself or herself out as a social worker licensed, registered, or otherwise authorized under this part.

(d) A certified, licensed, or otherwise statutorily recognized member of any other profession who practices his or her profession as authorized by law so long as the individual does not hold himself or herself out to the public as a social worker licensed, registered, or otherwise authorized under this part.

(e) An individual who is a participant in a self-help, peer counseling, or support services program provided by either a charitable or labor organization exempt from taxation under section 501(c)(3) or 501(c)(5) of the internal revenue code of 1986, so long as the individual does not hold himself or herself out to the public as a social worker licensed, registered, or otherwise authorized under this part. The exemption for a participant in a program described under this subdivision does not otherwise provide an exemption from licensure or registration under this part for an employee of the charitable or labor organization not otherwise authorized to engage in activities or use a title regulated under this part.

(f) An individual whose duties may include some or all of the activities described in section 18501(1)(f) as long as he or she is trained and does not hold himself or herself out as an individual licensed or registered under this part

or does not use a title regulated by this part, or both.

(2) This part does not prohibit an individual who holds a bachelor's, master's, or doctorate degree in social work from an accredited college or university from using a title including "social work" if the individual does not engage in the practice of social work at the bachelor's or master's level.

History: Add. 2004, Act 61, Eff. July 1, 2005
Popular Name: Act 368

333.18507 Social service technician; registration requirements; limited registration.

Sec. 18507.

(1) The board may grant registration under this article as a social service technician to an individual who meets all of the following requirements:

(a) Has had 1 year of social work experience acceptable to the board or has successfully completed 2 years of college that included some coursework relevant to human services areas.

(b) Is employed in the practice of social work and applies social work values, ethics, principles, and skills. This subdivision is waived if the individual has the equivalent of 2,000 hours of service in social work with an agency recognized by the board or has received an associate degree in social work at a college approved by the board that includes supervised instructional field experience.

(2) The board may grant registration under this article as a limited social service technician to an individual who has successfully completed 2 years of college and is employed in the practice of social work, or has been made an offer of employment in the practice of social work, with an agency recognized by the board, applies social work values, ethics, principles, and skills under the supervision of a licensee under this part, and is seeking to obtain the experience for registration as a social service technician. A limited registration under this subsection is renewable for not more than 1 year.

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000 ;-- Am. 2004, Act 61, Eff. July 1, 2005
Popular Name: Act 368

333.18509 License requirements; limited license.

Sec. 18509.

(1) Except as otherwise provided in section 18515, an individual granted a license under this part shall meet the following requirements:

(a) A licensed bachelor's social worker shall have been awarded a bachelor's degree in social work from a college or university social work program approved by the board and shall have completed at least 2 years of full-time postbachelor's degree experience, or the equivalent in part-time hours, in the practice of social work at the bachelor's level under the supervision of a licensed master's social worker. Until July 1, 2008, the required experience in the practice of social work at the bachelor's level shall be performed under the supervision of a person who has been awarded a master's or doctoral degree in social work from a college or university school of social work.

(b) A licensed master's social worker shall have been awarded a master's or doctoral degree in the field of social work from a college or university social work program approved by the board and shall have completed at least 2 years of full-time postmaster's or postdoctoral degree experience, or the equivalent in part-time hours, in the practice of social work at the master's level under the supervision of a licensed master's social worker. Until July 1, 2008, the required experience in the practice of social work at the master's level shall be performed under the supervision of a person who has been awarded a master's or doctoral degree in the field of social work from a college or university school of social work and has engaged in the practice of social work for not less than 2 years. In addition to the requirements set forth in this subdivision, a licensed master's social worker employed by a school district shall meet the requirements for employment as a school social worker contained in the revised school code, 1976 PA 451, MCL 380.1 to 380.1852, and the rules promulgated under that act.

(2) The board may grant a limited license to engage in the 2-year postdegree experience required under

subsection (1) to an individual who has completed all the educational requirements for licensure as a bachelor's social worker or a master's social worker. A limited license granted under this subsection is renewable for not more than 6 years.

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000 ;-- Am. 2004, Act 61, Eff. July 1, 2005
Popular Name: Act 368

333.18511 Practice of social work; requirements.

Sec. 18511.

A licensee shall not perform an act, task, or function within the practice of social work unless he or she is trained to perform the act, task, or function and the performance of the act, task, or function is consistent with the code of ethics for social workers.

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000 ;-- Am. 2004, Act 61, Eff. July 1, 2005
Popular Name: Act 368

333.18513 Confidentiality of communication.

Sec. 18513.

(1) An individual registered or licensed under this part or an employee or officer of an organization that employs the registrant or licensee is not required to disclose a communication or a portion of a communication made by a client to the individual or advice given in the course of professional employment.

(2) Except as otherwise provided in this section, a communication between a registrant or licensee or an organization with which the registrant or licensee has an agency relationship and a client is a confidential communication. A confidential communication shall not be disclosed, except under either or both of the following circumstances:

(a) The disclosure is part of a required supervisory process within the organization that employs or otherwise has an agency relationship with the registrant or licensee.

(b) The privilege is waived by the client or a person authorized to act in the client's behalf.

(3) If requested by the court for a court action, a registrant or licensee shall submit to an appropriate court a written evaluation of the prospect or prognosis of a particular client without disclosing a privileged fact or a privileged communication. An attorney representing a client who is the subject of an evaluation described in this subsection has the right to receive a copy of the evaluation. If required for the exercise of a public purpose by a legislative committee, a registrant or licensee or agency representative may make available statistical and program information without violating the privilege established under subsection (2).

(4) A registrant or licensee may disclose a communication or a portion of a communication made by a client pursuant to section 946 of the mental health code, 1974 PA 258, MCL 330.1946, in order to comply with the duty set forth in that section.

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000 ;-- Am. 2004, Act 61, Eff. July 1, 2005

333.18515 Registration issued under former act; term of member of board of examiners of social workers; continuation of rules; full licensure upon renewal application.

Sec. 18515.

(1) An individual who holds a registration issued under former article 16 of the occupational code, 1980 PA 299,

on March 7, 2000 is registered under this part until that registration expires and may renew his or her registration pursuant to part 161.

(2) The members of the board of examiners of social workers created under former section 1602 of the occupational code, 1980 PA 299, shall serve as the initial members of the Michigan board of social work until their successors are appointed under this article or until the expiration of their respective terms, whichever occurs first. However, if the term of a member of the board of examiners of social workers has not expired on March 7, 2000, that term expires on June 30 of the year in which the term will expire.

(3) Rules promulgated by the board of examiners of social workers or the director under former article 16 of the occupational code, 1980 PA 299, and in effect on March 7, 2000 continue in effect to the extent that they do not conflict with this article and shall continue to be enforced. The rules may be amended or rescinded by the director.

(4) The board shall grant a full license as a licensed bachelor's social worker to an individual who holds a certificate of registration as a social worker issued before the effective date of this subsection upon the next renewal application for registration.

(5) The board shall grant a full license as a licensed master's social worker to an individual who holds a registration as a certified social worker issued before the effective date of this subsection upon the next renewal application for registration.

History: Add. 2000, Act 11, Imd. Eff. Mar. 7, 2000 ;-- Am. 2004, Act 61, Eff. July 1, 2005
Popular Name: Act 368

333.18516 Continuing education; rules.

Sec. 18516.

(1) Beginning the license renewal cycle after the effective date of the rules promulgated under this section, an individual licensed under this part shall meet the continuing education requirements of this section when renewing his or her license.

(2) The department, in consultation with the board, shall promulgate rules to require a licensee seeking renewal to furnish evidence that during the 3 years immediately preceding application for renewal, the licensee attended continuing education courses or programs related to the practice of social work and designed to further educate licensees.

(3) The department, in consultation with the board, shall establish by rule the total number of course or program clock hours at a minimum of 45 clock hours in any 3-year license renewal cycle. A portion of those clock hours must be in social work ethics.

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

History: Add. 2004, Act 61, Eff. July 1, 2005
Popular Name: Act 368

333.18517 Third party reimbursement or worker's compensation benefits.

Sec. 18517.

This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services by an individual licensed as a social worker or registered as a social service technician under this article.

History: Add. 2004, Act 61, Eff. July 1, 2005
Popular Name: Act 368

333.18518 Training requirements; rules.

Sec. 18518.

(1) The department shall promulgate rules regarding the minimum training requirements for the practice of social work at the bachelor's level and for the practice of social work at the master's level.

(2) The rules regarding the practice of social work at the master's level shall distinguish between the training, education, and experience requirements relative to the social work applications described in section 18501(g)(ii) and (iii). The training, education, and experience requirements for the applications described in section 18501(g)(iii) shall include at least the following:

(a) Possession of a master's degree in social work.

(b) Completion of course work in normal human development and diagnosis, assessment, and treatment of individuals, couples, families, and groups, using a variety of psychotherapeutic methods or techniques.

(c) Completion of not less than 2 years of supervised post-master's degree clinical experience.

History: Add. 2004, Act 61, Eff. July 1, 2005
Popular Name: Act 368

Part 187.
RESPIRATORY CARE

333.18701 Definitions.

Sec. 18701.

(1) As used in this part:

(a) "Health facility" means a health facility or agency licensed under article 17.

(b) "Medical director" means a physician who is responsible for the quality, safety, appropriateness, and effectiveness of the respiratory care services provided by a respiratory therapist, who assists in quality monitoring, protocol development, and competency validation, and who meets all of the following:

(i) Is the medical director of an inpatient or outpatient respiratory care service or department within a health facility, or of a home care agency, durable medical equipment company, or educational program.

(ii) Has special interest and knowledge in the diagnosis and treatment of cardiopulmonary disorders and diseases.

(iii) Is qualified by training or experience, or both, in the management of acute and chronic cardiopulmonary disorders and diseases.

(c) "Physician" means that term as defined in sections 17001 and 17501.

(d) "Practice of respiratory care" means the provision of respiratory care services. Practice of respiratory care may be provided by an inpatient or outpatient service or department within a health facility, by a home care agency or durable medical equipment company, or by an educational program.

(e) "Respiratory care services" means preventative services, diagnostic services, therapeutic services, and rehabilitative services under the written, verbal, or telecommunicated order of a physician to an individual with a disorder, disease, or abnormality of the cardiopulmonary system as diagnosed by a physician. Respiratory care services involve, but are not limited to, observing, assessing, and monitoring signs and symptoms, reactions, general behavior, and general physical response of individuals to respiratory care services, including determination of whether those signs, symptoms, reactions, behaviors, or general physical response exhibit abnormal characteristics; the administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care services; the collection of blood specimens and other bodily fluids and tissues for, and the performance of, cardiopulmonary diagnostic testing procedures including, but not limited to, blood gas analysis; development, implementation, and modification of respiratory care treatment plans based on assessed abnormalities of the cardiopulmonary system, respiratory care protocols, clinical pathways, referrals, and written, verbal, or telecommunicated orders of a physician; application, operation, and management of mechanical ventilatory support and other means of life support; and the initiation of emergency procedures under the rules promulgated by the board.

(f) "Respiratory therapist" and "respiratory care practitioner" mean an individual engaged in the practice of respiratory care and who is responsible for providing respiratory care services and who is licensed under this article as a respiratory therapist or respiratory care practitioner.

(2) 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.

History: Add. 2004, Act 3, Eff. July 1, 2004
Popular Name: Act 368

333.18703 Restricted use of words, titles, or letters.

Sec. 18703.

Beginning the effective date of the amendatory act that added this part, an individual shall not use the titles "respiratory therapist", "respiratory care practitioner", "licensed respiratory therapist", "licensed respiratory care practitioner", "r.t.", "r.c.p.", "l.r.t.", "l.r.c.p.", or similar words that indicate the individual is a respiratory therapist unless the individual is licensed under this article as a respiratory therapist or respiratory care practitioner.

History: Add. 2004, Act 3, Eff. July 1, 2004
Popular Name: Act 368

333.18705 Michigan board of respiratory care; creation; membership; terms.

Sec. 18705.

(1) The Michigan board of respiratory care is created in the department and consists of the following members who meet the requirements of part 161:

(a) Until June 30, 2010, 4 individuals who meet the requirements of section 16135(2). Beginning July 1, 2010, 7 individuals who are engaged in the practice of respiratory care.

(b) One medical director.

(c) Until June 30, 2010, 2 public members. Beginning July 1, 2010, 3 public members.

(2) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: Add. 2004, Act 3, Eff. July 1, 2004 ;-- Am. 2006, Act 407, Imd. Eff. Sept. 29, 2006 ;-- Am. 2010, Act 79, Imd. Eff. May 20, 2010
Popular Name: Act 368

333.18707 Practice of respiratory care; license required.

Sec. 18707.

(1) An individual shall not engage in the practice of respiratory care or provide or offer to provide respiratory care services unless licensed under this part.

(2) Subsection (1) does not prevent any of the following:

(a) An individual licensed under any other part or act from performing activities that are considered respiratory care services if those activities are within the individual's scope of practice and if the individual does not use the titles protected under section 18703.

(b) An individual not licensed under this part from performing activities that are considered respiratory care services while under the supervision of an individual who is licensed under this part as a respiratory therapist or respiratory care practitioner, if the individual does not use the titles protected under section 18703.

(c) An individual not licensed under this part from performing activities that are considered diagnostic services if the individual possesses a level of training approved by the board, has successfully passed a credentialing examination approved by the board, and if the individual does not use the titles protected under section 18703.

(d) The practice of respiratory care which is an integral part of a program of study by students enrolled in an accredited respiratory therapist educational program approved by the board, provided that they are identified as a student and provide respiratory care services only while under the supervision of a licensed respiratory therapist or respiratory care practitioner.

(e) Self-care by a patient or uncompensated care by a friend or family member who does not represent or hold himself or herself out to be a licensed respiratory therapist or respiratory care practitioner.

History: Add. 2004, Act 3, Eff. July 1, 2004
Popular Name: Act 368

333.18709 Licensure requirements; rules; temporary license; interim standards.

Sec. 18709.

(1) The department shall promulgate rules under section 16145 as necessary or appropriate to fulfill its functions under this article. In promulgating rules to establish requirements for licensure under section 16145, the department shall adopt all of the following requirements:

(a) Successful completion of an accredited respiratory therapist training program approved by the department.

(b) Having at least a 2-year associate's degree from an accredited college or university approved by the department.

(c) Having the credential conferred by the national board for respiratory care or its successor organization as a respiratory therapist or its successor credential, as approved by the department.

(2) The department shall issue a license as a respiratory therapist to an individual who had either of the credentials as a registered respiratory therapist or certified respiratory therapist, or their predecessor credentials, conferred by the national board for respiratory care, or its predecessor organization, on or before the effective date of this part, and who applies for licensure as a respiratory therapist within 1 year after the effective date of this part.

(3) The department shall issue a license as a respiratory therapist to an individual who is a holder of a temporary license as a respiratory therapist if a holder of a temporary license meets all of the following requirements:

(a) Applies for licensure as a respiratory therapist prior to the expiration of his or her temporary license as prescribed in section 18711(2).

(b) Provides proof to the department that he or she has successfully completed the national credentialing exam by the national board for respiratory care or its successor organization, as approved by the department.

(4) The department may utilize the standards contained in the clinical practice guidelines issued by the American association of respiratory care that are in effect on the effective date of this part as interim standards, which are adopted by reference, until rules are promulgated under subsection (1).

History: Add. 2004, Act 3, Eff. July 1, 2004
Popular Name: Act 368

333.18711 Temporary license.

Sec. 18711.

(1) The department may issue a temporary license as a respiratory therapist to an applicant who does not meet all of the requirements of section 18709, if the applicant does all of the following:

(a) Applies to the department for a temporary license within 1 year after the effective date of the amendatory act that added this part.

(b) Provides satisfactory proof to the department that he or she has been employed full-time as a respiratory therapist for the 4 years immediately preceding the date of application in 1 of the following:

(i) An inpatient or outpatient respiratory care service or department within a licensed health facility.

(ii) A durable medical equipment company or home care agency.

(iii) A respiratory care educational program.

(c) Provides the department with a letter of recommendation from his or her medical director at the time of application attesting to the applicant's clinical competence as a respiratory therapist.

(d) Pays the applicable fees prescribed by section 16344.

(2) A temporary license issued by the department under this section expires within the same time period as a nontemporary license issued by the department under this part. The holder of a temporary license issued under this section may apply for 1 or more renewals of the temporary license a number of times, but an individual may not

hold a temporary license for more than a total of 4 years.

(3) The holder of a temporary license issued under this section is subject to this part and the rules promulgated under this part, except for the requirements for licensure.

History: Add. 2004, Act 3, Eff. July 1, 2004
Popular Name: Act 368

333.18713 New or additional reimbursement or benefits not required.

Sec. 18713.

This part does not require new or additional third party reimbursement or mandated worker's compensation benefits for services rendered by an individual licensed as a respiratory therapist under this article.

History: Add. 2004, Act 3, Eff. July 1, 2004
Popular Name: Act 368

Part 188
VETERINARY MEDICINE

333.18801 Meanings of words and phrases; general definitions and principles of construction.

Sec. 18801.

(1) For purposes of this part the words and phrases defined in sections 18802 to 18805 have the meanings ascribed to them in those sections.

(2) In addition, 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.

History: 1978, Act 368, Eff. Sept. 30, 1978
Compiler's Notes: For transfer of powers and duties of certain health-related functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.
Popular Name: Act 368

333.18802 Definitions; A to S.

Sec. 18802.

(1) "Abandoned by its owner" means any of the following:

(a) Failure of an owner to return to regain custody of an animal left in the custody of a veterinarian by its owner for treatment, boarding, or other services at the scheduled time for the animal's return or at completion of the services.

(b) Refusal of an owner to accept custody of an animal left in the custody of a veterinarian by its owner for treatment, boarding, or other services at the scheduled time for the animal's return or at completion of the services.

(c) Failure of an owner to provide payment for treatment, boarding, or other services on an animal left in the custody of a veterinarian by its owner as agreed upon by the owner and the veterinarian.

(2) "Animal" means an animal other than a human being and includes all fowl, birds, fish, and reptiles, wild or domestic, living or dead, which may be carriers of infectious diseases.

(3) "Owner" means the actual owner of an animal, an agent of the owner of the animal, or a person with the apparent authority to act as the owner or as the agent of the owner of an animal.

(4) "Supervision" includes that degree of close physical proximity necessary for the supervising veterinarian to

observe and monitor the performance of a veterinary technician.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1982, Act 353, Imd. Eff. Dec. 21, 1982 ;-- Am. 2000, Act 22, Imd. Eff. Mar. 13, 2000
Popular Name: Act 368

333.18805 Definitions; P to V.

Sec. 18805.

(1) "Practice as a veterinary technician" means the practice of veterinary medicine based on less comprehensive knowledge and skill than that required of a veterinarian and performed under supervision of a veterinarian.

(2) "Practice of veterinary medicine" means:

(a) Prescribing or administering a drug, medicine, treatment, or method of procedure; performing an operation or manipulation; applying an apparatus or appliance; or giving an instruction or demonstration designed to alter an animal from its normal condition.

(b) Curing, ameliorating, correcting, reducing, or modifying a disease, deformity, defect, wound, or injury in or to an animal.

(c) Diagnosing or prognosing, or both, a disease, deformity, or defect in an animal by a test, procedure, manipulation, technique, autopsy, biopsy, or other examination.

(3) "Veterinarian" means an individual licensed under this article to engage in the practice of veterinary medicine.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1982, Act 353, Imd. Eff. Dec. 21, 1982
Popular Name: Act 368

333.18808 Veterinary technician; health profession subfield.

Sec. 18808.

Practice as a veterinary technician is a health profession subfield of the practice of veterinary medicine.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1982, Act 353, Imd. Eff. Dec. 21, 1982
Popular Name: Act 368

333.18811 Veterinarian or veterinary technician; license or authorization required; prohibited conduct; use of words, titles, or letters.

Sec. 18811.

(1) A person shall not engage in the practice of veterinary medicine unless licensed or otherwise authorized by this article.

(2) After July 1, 1979, an individual shall not practice as a veterinary technician without a license.

(3) A veterinary technician shall not diagnose animal diseases, prescribe medical or surgical treatment, or perform as a surgeon.

(4) 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 part to use the terms and in a way prescribed in this part: "veterinary", "veterinarian", "veterinary doctor", "veterinary surgeon", "doctor of veterinary medicine", "v.m.d.", "d.v.m.", "animal technician", or "animal technologist".

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1982, Act 353, Imd. Eff. Dec. 21, 1982 ;-- Am. 2006, Act 406, Imd. Eff. Sept. 29, 2006
Popular Name: Act 368

333.18812 Limited license for practice apart from veterinary education; requirements; graduates of nonapproved veterinary education programs.

Sec. 18812.

(1) A limited license for practice apart from veterinary education shall require that the individual be a senior student in an approved school of veterinary medicine and be under the supervision of a veterinarian licensed by this state.

(2) Graduates of nonapproved veterinary education programs may be granted a limited license under section 16182(1).

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1982, Act 337, Imd. Eff. Dec. 16, 1982
Popular Name: Act 368

333.18813 Veterinarian or veterinary technician license renewal; continuing education; evidence; license cycle.

Sec. 18813.

(1) Beginning January 1, 2020, a licensee seeking renewal of a veterinarian's license shall, if requested, furnish the department with satisfactory evidence that during the 3 years immediately preceding application for renewal, he or she attended at least 45 hours of continuing education courses or programs approved by the board.

(2) Beginning January 1, 2020, a licensee seeking renewal of a veterinary technician's license shall, if requested, furnish the department with satisfactory evidence that during the 3 years immediately preceding application for renewal, he or she attended at least 15 hours of continuing education courses or programs approved by the board.

(3) The license cycle for a veterinarian's license and a veterinary technician's license is 3 years.

History: Add. 2016, Act 47, Eff. June 13, 2016 ;-- Am. 2016, Act 383, Eff. Mar. 28, 2017
Popular Name: Act 368

333.18814 Conduct not considered practice of veterinary medicine.

Sec. 18814.

An individual is not engaging in the practice of veterinary medicine in this state who:

(a) Administers to livestock owned by that individual, except when the title is vested in him or her for the purpose of circumventing this act.

(b) Conducts experimentation and scientific research in the development of methods, techniques, or treatments directly or indirectly applicable to the problems of medicine and who in connection therewith uses animals.

(c) Conducts routine vaccination and pullorum testing of poultry under supervision of the national poultry improvement plan as administered by the official state agency and the United States department of agriculture.

(d) Is a regularly employed veterinarian of the United States department of agriculture or a full-time veterinary food inspector while engaged in the inspection of animals as food for human consumption.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.18817 Use of marihuana or industrial hemp.

Sec. 18817.

(1) A veterinarian may consult with an owner on the use of marihuana or industrial hemp on an animal of the owner.

(2) As used in this section:

(a) "Industrial hemp" means that term as defined in section 7106.

(b) "Marihuana" means that term as defined in section 7106.

History: Add. 2020, Act 280, Eff. Mar. 24, 2021
Popular Name: Act 368

333.18821 Michigan board of veterinary medicine; creation; membership; waiver; terms.

Sec. 18821.

(1) The Michigan board of veterinary medicine is created in the department and shall consist of the following 9 members who shall meet the requirements of part 161: 5 veterinarians, 1 veterinary technician, and 3 public members. The chief of the animal health division of the department of agriculture is an ex officio member without vote.

(2) The requirement of section 16135(d) that a board member shall have practiced that profession for 2 years immediately before appointment is waived until September 30, 1980 for members of the board who are licensed in a health profession subfield created by this part.

(3) The terms of office of individual members of the board created under this section, except those appointed to fill vacancies, expire 4 years after appointment on December 31 of the year in which the term expires.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1982, Act 353, Imd. Eff. Dec. 21, 1982 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994 ;-- Am. 2006, Act 406, Imd. Eff. Sept. 29, 2006
Popular Name: Act 368

333.18822 Animal diseases; advising department of agriculture.

Sec. 18822.

In addition to the functions set forth in part 161, upon request, the board shall advise the department of agriculture in matters pertaining to animal diseases.

History: 1978, Act 368, Eff. Sept. 30, 1978
Popular Name: Act 368

333.18824 Repealed. 1989, Act 201, Imd. Eff. Oct. 23, 1989.

Compiler's Notes: The repealed section pertained to task force to advise board.
Popular Name: Act 368

333.18826 Veterinarian or veterinary technician; civil liability for acts or omissions; immunity; applicability; notice.

Sec. 18826.

(1) A veterinarian or veterinary technician is not liable for civil damages as a result of the acts or omissions described in subsection (2) if both of the following apply:

(a) The animal has been brought to the veterinarian or veterinary technician by a person other than the owner of the animal.

(b) The veterinarian or veterinary technician does not know who owns the animal or is unable to contact the owner of the animal before a decision must be made with respect to emergency treatment or euthanasia.

(2) The immunity granted by this section applies to both of the following:

(a) An injury to an animal or death of an animal that results from acts or omissions by the veterinarian or veterinary technician in providing treatment to the animal.

(b) The euthanasia of a seriously injured or seriously ill animal.

(3) This section does not apply to an act or omission by a veterinarian or veterinary technician amounting to gross negligence or willful and wanton misconduct in providing treatment to an animal.

(4) A veterinarian or veterinary technician shall notify the animal control authority in the county in which the animal is found of the disposition of the treatment rendered to the animal before the end of the first business day following the day treatment is rendered.

History: Add. 2000, Act 23, Imd. Eff. Mar. 13, 2000
Popular Name: Act 368

333.18827 Veterinarian or veterinary technician; reporting animal to be abandoned, neglected, or abused; immunity.

Sec. 18827.

A veterinarian or veterinary technician who in good faith reports to a peace officer, an animal control officer, or an officer of a private organization devoted to the humane treatment of animals an animal that the veterinarian or veterinary technician knows or reasonably believes to be abandoned, neglected, or abused is immune from civil or criminal liability for making the report.

History: Add. 2000, Act 23, Imd. Eff. Mar. 13, 2000
Popular Name: Act 368

333.18835 Grounds for fine, reprimand, or probation; grounds for denying, limiting, suspending, or revoking license.

Sec. 18835.

In addition to the grounds set forth in part 161, the disciplinary subcommittee may fine, reprimand, or place a licensee on probation, or deny, limit, suspend, or revoke the license of a veterinarian for fraudulent use or misuse of a health certificate, inspection certificate, vaccination certificate, test chart, meat inspection stamp, or other blank form used in the practice of veterinary medicine that might lead to the dissemination of disease, unlawful transportation of diseased animals, or the sale of inedible products of animal origin for human consumption.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 1993, Act 79, Eff. Apr. 1, 1994
Popular Name: Act 368

333.18838 Disposal of abandoned animal; notices; costs; relinquishment of rights by owner.

Sec. 18838.

(1) A veterinarian may dispose of an animal placed in the veterinarian's custody for treatment, boarding, or other care and abandoned by its owner by sending the notices required by this section. The veterinarian shall send a first written notice of an intent to dispose of the animal by certified mail to the owner, at his or her last known address and a second written notice not less than 5 days after sending the first notice. Upon the expiration of 5 days after sending the second written notice to the owner, a veterinarian may dispose of the animal.

(2) The disposal of an animal does not release the owner from payment of costs incurred, including the disposal.

(3) This section does not prevent the owner or agent from mitigating additional costs by removing the animal from custody of the veterinarian.

(4) In the case of an animal abandoned by its owner, the owner is considered to have relinquished all rights to the animal.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2000, Act 22, Imd. Eff. Mar. 13, 2000
Popular Name: Act 368