

(7) A person who engages or offers to engage in activity as a driver education instructor before being certified by the secretary of state is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$2,000.00, or both.

(8) The secretary of state may develop and prescribe an orientation and education program that a person must complete before receiving an original driver education instructor certificate issued under this act.

(9) Beginning December 31, 2007, an applicant for an original driver education instructor certificate is required to complete the driver education instructor preparation courses described in section 23. This subsection does not apply to an applicant for a driver education instructor certificate to conduct truck driver training.

256.639 Original or renewal driver education instructor certificate; issuance; requirements; display of driver education certificate card.

Sec. 19. (1) The secretary of state may issue a person an original or renewal driver education instructor certificate if the secretary of state is satisfied that the person meets the requirements for that certificate under this act. A certificate may include the following:

- (a) The name of the instructor.
- (b) An image of the instructor.
- (c) An identification number assigned to the instructor.
- (d) One or more driver education training classifications.
- (e) Other information determined necessary by the secretary of state.

(2) A driver education instructor shall display the driver education instructor certificate card issued by the secretary of state to that instructor at all times while providing instruction to a student. A driver education instructor shall provide a copy of his or her certificate to a driver education provider who utilizes the instructor's services.

256.641 Renewal of driver education instructor certificate; application; format; effect of expired certificate; criminal history check; validity and duration of certificate; fee.

Sec. 21. (1) A certified driver education instructor may apply to the secretary of state for renewal of his or her driver education instructor certificate. The application shall be in a format as prescribed by the secretary of state and shall include all of the following:

- (a) A properly completed application signed by the applicant.
- (b) A certification that the applicant complies with the professional development requirements of this act and any additional verification regarding compliance with the professional development requirements of this act as prescribed by the secretary of state.
- (c) A nonrefundable application processing fee of \$45.00.
- (d) Every 2 years, a new certified medical examination report that is not older than 90 days and that is prepared by a physician, a physician's assistant, or a certified nurse practitioner licensed to practice in this state or in the applicant's state of residence. The report shall include a statement by the person that certified the report that the applicant is medically qualified to operate a motor vehicle and to train others to operate a motor vehicle.
- (e) Other information and documents prescribed by the secretary of state.

(2) If the secretary of state receives a properly completed renewal application before the applicant's driver education instructor's current certificate expires, the certificate continues in full force and effect until the secretary of state either approves or denies the renewal application. If the secretary of state does not receive a properly completed renewal application before the driver education instructor certificate expires, the driver education instructor

shall not offer to engage or engage in the activity of a driver education instructor until the secretary of state issues the holder of the expired certificate an original or renewal driver education instructor certificate as provided in this act.

(3) The secretary of state shall not issue a renewal certificate more than 30 days after a driver education instructor certificate expires unless the instructor has submitted a properly completed renewal application within 30 days after the certificate's expiration date. An instructor that applies for a certificate renewal later than 30 days after the certificate expires shall apply to the secretary of state for an original driver education instructor certificate.

(4) A certified driver education instructor shall complete a criminal history check as described in section 29 to the satisfaction of the secretary of state every 4 years on a renewal application for a driver education instructor certificate.

(5) A driver education instructor certificate issued under this act is valid for 2 years. The original expiration date is exactly 2 years from the date the secretary of state issues the instructor an original certificate. An instructor's renewal certificate expires 2 years after its issuance on the same day and month that the original certificate expired.

(6) A nonrefundable application processing fee collected under this section shall be deposited into the driver education provider and instructor fund created under section 83.

256.643 Driver education instructor preparation program.

Sec. 23. (1) A college or university or a person approved by the secretary of state may present a driver education instructor preparation program. A college, university, or person shall not offer to engage or engage in the activity of presenting a driver education instructor preparation program without the prior approval of the secretary of state.

(2) A college, university, or person may apply to the secretary of state for approval to conduct a driver education instructor preparation program. A college, university, or person seeking approval shall present satisfactory evidence to the secretary of state as prescribed by the secretary of state that the college's, university's, or person's proposed program meets the requirements of this section.

(3) The secretary of state shall review and approve a driver education instructor preparation program that meets the requirements of this section. The secretary of state shall give the college, university, or person requesting approval a written notice of the secretary of state's approval or denial, including the reason for any denial.

(4) The secretary of state shall prepare a driver education instructor preparation program guide as a model for how to conduct a driver education instructor preparation program. The model program guide shall identify the content of each course identified in subsection (7).

(5) Beginning September 1, 2007, a driver education instructor preparation program shall consist of not less than 4 driver education preparation courses.

(6) A college, university, or person seeking approval of a driver education instructor preparation course shall present evidence satisfactory to the secretary of state that the proposed course meets the requirements of this section. The secretary of state shall review a driver education instructor preparation course and determine whether that course meets the requirements of this act. The secretary of state shall prescribe the administration and curriculum of a driver education instructor preparation course. The secretary of state shall give the college, university, or person requesting approval written notice of the secretary of state's approval or denial, including the reason for any denial.

(7) A driver education instructor preparation program shall consist of not less than 4 driver education instructor preparation courses. The 4 required courses shall each concentrate on only 1 of the following concepts, and all of the following concepts shall be covered in the minimum 4 courses required:

- (a) Driver task analysis.
- (b) Developing classroom and program knowledge.
- (c) Developing vehicle operation skills.
- (d) Practicum.

(8) A driver education instructor preparation course shall consist of not less than 2 semester hours per course or the equivalent of not less than 2 semester hours per course as approved by the secretary of state. A driver education instructor preparation course shall extend for not less than 3 weeks.

(9) An instructor who teaches a driver education instructor preparation course shall meet the following requirements:

- (a) Have a master's degree in education from an accredited college or university.
- (b) Hold a valid driver education instructor certificate issued by the secretary of state.
- (c) Any other requirement the secretary of state determines is necessary to determine instructor qualifications.

(10) A college, university, or person approved by the secretary of state that offers a driver education instructor preparation course shall include in the course registration material information explaining the driver education instructor qualifications required under this act.

(11) The secretary of state shall review each driver education instructor preparation program approved under this section at least once every 3 years.

(12) A driver education preparation course credit earned through a college, university, or another entity in another state may be accepted on the same basis as the equivalent credit earned through a driver education instructor preparation program conducted by a college or university or by a person approved by the secretary of state, if approved by the secretary of state. A person seeking approval of a driver education course credit earned in another state shall present satisfactory evidence to the secretary of state that the other state's course substantially meets the requirements of this state. The secretary of state shall review a driver education preparation course credit earned in another state and determine whether that course content meets the requirements of this act. The secretary of state shall give the person a written notice of the secretary of state's approval or denial, including the reason for any denial.

(13) This section does not apply to an applicant for a driver education instructor certificate that is limited to the truck driver training classification.

256.645 Conditional driver education instructor certificate; issuance; requirements.

Sec. 25. (1) A person shall not participate in a practicum course conducted by a college or university or by a person approved by the secretary of state unless the person possesses a conditional driver education instructor certificate.

(2) A person shall apply to the secretary of state for a conditional driver education instructor certificate. The secretary of state may issue a person a conditional driver education instructor certificate after the person presents satisfactory evidence to the secretary of state that the applicant complies with both of the following:

- (a) Meets all of the driver education instructor application requirements under section 17 except for completion of a practicum course.

(b) Is enrolled in a practicum course conducted by a college or university or by a person approved by the secretary of state.

(3) This section does not apply to an applicant for a driver education instructor certificate that is limited to the truck driver training classification.

256.647 Professional development requirements; establishment; publication; provisions.

Sec. 27. Beginning January 1, 2008, the secretary of state shall establish professional development requirements for a certified driver education instructor. The secretary of state shall publish the requirements in a format and manner prescribed by the secretary of state. Professional development requirements shall provide the following:

(a) The criteria a driver education instructor shall follow to select an activity to meet the professional development requirements.

(b) The date by which an instructor shall complete the professional development requirements.

256.649 Criminal history check.

Sec. 29. (1) A criminal history check required under this act shall be performed by the department of state police and the federal bureau of investigation.

(2) A person required to have a criminal history check shall send a request for a criminal history check to the department of state police in a format and as prescribed by the department of state police. The fees required by the department of state police and the federal bureau of investigation to conduct the criminal history check shall accompany a request for a criminal history check.

(3) The department of state police shall conduct a criminal history check within 45 days after receiving a proper request and the required fee for a criminal history check under this section. After conducting the criminal history check and within that same 45 days, the department of state police shall provide the secretary of state with a report of the criminal history check. The report shall contain any criminal history record information on the person maintained by the department of state police.

(4) Except as otherwise provided in this act, the secretary of state shall not approve an original or renewal driver education provider or driver education instructor certificate before receiving and reviewing the applicable criminal history checks from the department of state police and the federal bureau of investigation.

(5) The secretary of state shall use criminal history record information received under this section only for evaluating an applicant's qualifications to receive a driver education provider or driver education instructor certificate under this act. The secretary of state shall discuss the report or its contents only with staff of the department of state police or a person who was involved in the prosecution of a criminal matter noted in a report for purposes of clarifying whether an offense meets 1 of the crimes described in section 59. A person who uses criminal history record information in violation of this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00.

(6) As used in this section, "criminal history record information" means that term as defined in section 1a of 1925 PA 289, MCL 28.241a.

256.651 Use of motor vehicle; requirements.

Sec. 31. (1) A motor vehicle used by a driver education provider shall:

(a) Comply with the motor vehicle safety standards required under both federal law and the laws of this state when used as a driver education vehicle.

(b) Display an identity, in a size and design prescribed by the secretary of state, that the vehicle is used in a driver education course.

(c) Display a driver education provider's identity, in a size and design prescribed by the secretary of state, that uses the vehicle in a driver education course.

(2) A driver education provider shall not allow a driver education instructor to use a motor vehicle in a driver education course with more occupants than the number of safety belts installed in the vehicle.

(3) A passenger motor vehicle used by a driver education provider in a driver education course shall be a dual-controlled vehicle. For the purpose of this subsection, a "dual-controlled vehicle" means a motor vehicle that is equipped with a duplicate brake or, if applicable, a duplicate brake and clutch pedal that is positioned on the right front floorboard of the vehicle.

256.653 Teen driver training; duties of driver education provider.

Sec. 33. A driver education provider issued a driver education provider certificate that is classified for teen driver training under this act shall comply with all of the following:

(a) Verify that a person enrolled in a driver education course complies with the following:

(i) Is 14 years, 8 months of age or older before beginning a segment 1 curriculum. A student's initial attendance or participation in a class shall not begin or commence on a date after the first day of that scheduled class without good cause. Except as otherwise provided in this subsection, the student being less than 14 years and 8 months on the first day of class is not good cause.

(ii) If less than 14 years, 8 months of age, that the secretary of state has issued the person an approval, as prescribed by the secretary of state, for a minor restricted driver license under section 312 of the Michigan vehicle code, 1949 PA 300, MCL 257.312.

(iii) Meets the physical or mental requirements for a motor vehicle operator's license under section 309 of the Michigan vehicle code, 1949 PA 300, MCL 257.309.

(b) Provide a driver education course that has been approved by the secretary of state under this act.

(c) Administer a knowledge test approved by the secretary of state under this act to each student at the completion of a driver education course in accordance with the standards prescribed by the secretary of state under this act.

(d) For a student or customer who is less than 18 years of age, sign a written agreement with the student or customer or the student's or customer's parent or legal guardian. The agreement shall provide that the driver education provider shall have not less than 2 students in the vehicle used by the student or customer during behind-the-wheel instruction. A student's or customer's parent or legal guardian may waive this requirement only in writing.

256.655 Teen driver training; model curriculum.

Sec. 35. (1) The secretary of state shall prescribe a model curriculum for teen driver training under this act. After September 1, 2007, a driver education provider classified for teen driver training shall use the secretary of state's prescribed model curriculum or may use an alternative curriculum only after it has been reviewed and approved by the secretary of state. The secretary of state may approve an alternative curriculum if it substantially meets or exceeds the standards of the secretary of state's prescribed model curriculum.

(2) Under a segment 1 curriculum and segment 2 curriculum combined, each student shall receive no less than 30 hours of classroom instruction and 7 hours of behind-the-wheel driver education course experience.

256.657 Teen driver training; segment 1 curriculum; definitions.

Sec. 37. (1) A segment 1 curriculum shall include both classroom and behind-the-wheel driver education course experience. The classroom instruction and behind-the-wheel instruction shall be integrated, relate to each other, and meet the following requirements:

(a) Each student shall receive not less than 24 hours of classroom instruction. Classroom instruction shall be scheduled to occur as follows:

(i) Classroom instruction shall occur not more than 2 hours per day.

(ii) Classroom instruction shall occur over the course of 3 or more weeks.

(iii) Classroom instruction of 4 or more hours shall be received before the student begins to receive behind-the-wheel instruction.

(iv) Behind-the-wheel instruction of 3 or more hours shall be completed before classroom instruction terminates.

(b) Each student shall receive not less than 6 hours of behind-the-wheel instruction or substitute hours permitted under this subsection. Behind-the-wheel instruction shall be scheduled to occur as follows:

(i) A student shall receive not more than 1 hour of behind-the-wheel instruction per day.

(ii) Not more than 1 student shall occupy the front seat of the vehicle with the instructor.

(iii) A driver education motor vehicle shall contain not more than 4 students during behind-the-wheel instruction.

(iv) Not later than 3 weeks after the last classroom instruction has been completed, a student shall complete any remaining required behind-the-wheel instruction.

(v) Except as otherwise provided in this section, a student may receive instruction while operating a motor vehicle at a multiple vehicle driving facility. One hour of instruction received at a multiple vehicle driving facility may substitute as credit for 1 hour of behind-the-wheel experience. A maximum of 2 hours of behind-the-wheel experience can be substituted with instruction received at a multiple vehicle driving facility.

(c) A student shall receive 4 or more hours of behind-the-wheel observation time.

(2) A driver education provider classified for teen driver training shall not substitute behind-the-wheel instruction with multiple vehicle driving facility experience until the secretary of state gives the provider written approval for that substitution as provided in this act.

(3) A driver education provider classified for teen driver training shall not substitute behind-the-wheel driving experience with simulator device training.

(4) As used in this section:

(a) “Integrated” means classroom and behind-the-wheel instruction scheduled to include a mix of classroom and behind-the-wheel instruction throughout the duration of the driver education course, except as otherwise provided in this section.

(b) “Observation time” means the time a student in a driver education course sits in the rear seat of a vehicle and observes another student in the front seat behind the wheel operating the controls of the vehicle, responding to driving situations, and with an instructor sitting in the front seat.

256.659 Segment 2 curriculum course.

Sec. 39. A segment 2 curriculum course provided under this act shall meet both of the following requirements:

- (a) Be offered only to a student who has done all of the following:
 - (i) Successfully completed a segment 1 curriculum driver education course.
 - (ii) Held a valid level 1 graduated driver license for not less than 3 continuous months.
 - (iii) Acquired 30 or more hours driving experience on a level 1 graduated driver license that includes not less than 2 hours of night driving with a licensed parent or legal guardian, or with the permission of a parent or legal guardian, with any licensed driver who is 21 years of age or older.
- (b) Contain 6 or more hours of classroom instruction that is scheduled so the student receives not more than 2 hours of classroom instruction per day.

256.661 Classroom instruction; number of students; limitation.

Sec. 41. (1) Except as otherwise provided in this section, a segment 1 or segment 2 classroom shall not contain more than 36 students when classroom instruction is given.

(2) A segment 2 class size may exceed 36 students with the prior approval of the secretary of state. The secretary of state may approve a segment 2 class size to exceed 36 students for up to 60 minutes per day when justified by a special presentation.

(3) The number of students in a class shall not exceed the number of students allowed by the fire marshal.

256.663 Driver education course certificate of completion; issuance to student.

Sec. 43. (1) A driver education provider classified to provide teen driver training shall issue a driver education course certificate of completion to a student who successfully passes a written knowledge test prescribed by the secretary of state for that segment and successfully completes the other course work for that segment. The secretary of state shall prescribe the knowledge test administered to a teen student, including establishing a passing score and the maximum number of times a student may take the test.

(2) A driver education provider shall not issue a driver education course certificate of completion for segment 1 if the student is not eligible for a graduated driver license.

(3) A driver education provider shall not issue a driver education course certificate of completion for segment 2 to a student unless the student has been issued a graduated driver license.

256.665 Course schedule report, course completion report; requirements.

Sec. 45. (1) Before holding a class, a driver education provider shall file a projected driver education course schedule report with and as prescribed by the secretary of state. The course schedule report shall contain:

- (a) The name of the school.
- (b) The dates and times of the class.
- (c) The classroom location.
- (d) The names of the instructors.
- (e) Any other information the secretary of state determines is needed to administer this act or ensure the health, safety, and welfare of a student or the public.

(2) If a change occurs in the information contained in a report filed under subsection (1), the driver education provider shall immediately file an updated projected driver education course report with the secretary of state or later if authorized by the secretary of state.

(3) Upon completion of a class, a driver education provider shall file a course completion report with and as prescribed by the secretary of state. The course completion report shall contain:

- (a) The name of the school.
- (b) The dates the class was held.
- (c) The name, address, and birth date of each student issued a certificate of completion.
- (d) The inventory control number of each certificate of completion issued to a student.
- (e) Any other information the secretary of state determines is needed to administer this act or ensure the health, safety, and welfare of a student or the public.

(4) A driver education provider classified for truck driver training shall file a report with and as prescribed by the secretary of state on April 15 and October 15 of each year. Each report shall contain:

- (a) The name, address, and driver license number of each student enrolled since the provider's last report under this subsection.
- (b) The name of each student who completed a training program.
- (c) Any other information the secretary of state determines is needed to administer this act or ensure the health, safety, and welfare of a student or the public.

(5) A driver education provider shall file a year-end report with and as prescribed by the secretary of state on or before January 31 of each year. The year-end report shall contain all of the following:

- (a) The name of the school.
- (b) The number of students who passed and failed each type of instruction given.
- (c) A list of the instructors who taught during the year.
- (d) A list of classroom locations utilized during the year.
- (e) The tuition charged for each type of instruction.
- (f) Any other information the secretary of state determines is needed to administer this act or ensure the health, safety, and welfare of a student or the public.

(6) A driver education provider shall maintain a record of the instruction given to a student as prescribed by the secretary of state. A student instruction record shall contain all of the following:

- (a) The dates and number of hours of classroom and behind-the-wheel instruction given the student, signed by the instructors that gave the instruction.
- (b) Complete registration and achievement records for the student.
- (c) A list of the student's payments for tuition, fees, and purchase or rental of supplies or equipment.
- (d) A copy of the signed contract between the school and the student.
- (e) The information contained on a course completion report for the student.
- (f) Any other information the secretary of state determines is needed to administer this act or ensure the health, safety, and welfare of a student or the public.

(7) The secretary of state shall prescribe the manner and method that any information, forms, reports, and other documents required in this act are submitted to the secretary of state, including electronic submission.

256.667 Written agreement between provider and student; terms.

Sec. 47. (1) A driver education provider shall have a written agreement with each of its students. A driver education provider shall not give instruction to a student until after the provider and the student have entered into the written agreement. The agreement shall be dated and signed by both the provider and the student. The agreement shall contain all the terms of the agreement between the provider and the student and include all of the following:

- (a) The student's name, address, birth date, and telephone number.
 - (b) If the student is a minor, the parent's or legal guardian's name, address, and telephone number.
 - (c) A description of the instruction to be given by that provider.
 - (d) The amount of the fee or tuition charged and paid for the instruction.
 - (e) A notice statement prescribed by the secretary of state.
 - (f) Other information prescribed by the secretary of state.
- (2) Before instruction begins, the driver education provider shall give the student a signed copy of the agreement, accompanied by a copy of all of the provider's applicable policies.
- (3) This section does not apply to an educational institution or a governmental agency that does not charge a student a fee for driver education instruction.

256.669 Coordinated segment 1 driver education course; approval of secretary of state; written agreement between provider and student; terms.

Sec. 49. (1) The secretary of state may approve the giving of a coordinated segment 1 driver education course. A driver education provider shall not give a coordinated segment 1 driver education course without the prior written approval of the secretary of state. The provider shall file a request for approval with the secretary of state in a format as prescribed by the secretary of state. The secretary of state may review a request on a case-by-case basis.

(2) A driver education provider shall not give instruction under this section until after the provider and the student have entered into a written agreement as provided in this subsection. The agreement shall be dated and signed by both the provider and the student. The agreement shall contain all the terms of agreement between the provider and the student and include all of the following:

- (a) The student's name, address, birth date, and telephone number.
- (b) If the student is a minor, the parent's or legal guardian's name, address, and telephone number.
- (c) The name of each provider that will give instruction.
- (d) A description of the instruction that each provider will give.
- (e) A description of the assessment or test to be administered by each provider.
- (f) The amount of the fee or tuition charged and paid for the instruction.
- (g) The name of the provider responsible for issuing a segment 1 driver education course certificate of completion.
- (h) A statement of who is responsible for maintaining each part of the student's records as required under this act.
- (i) Other information prescribed by the secretary of state.

(3) Before instruction begins, the driver education provider shall give the student a signed copy of the agreement.

(4) This section does not apply to an educational institution or a governmental agency that does not charge a student a fee for driver education instruction.

256.671 Reports; maintenance; format; manner; availability; failure to comply; duration.

Sec. 51. (1) The secretary of state may require that information, a record, or any document required to be maintained under this act be maintained in a format and manner prescribed by the secretary of state.

(2) The secretary of state may prescribe the format, manner, and deadline for filing a report with the secretary of state under this act. Except as otherwise provided in this act, the secretary of state shall notify a person required to file a report with the secretary of state of the applicable filing deadline. The secretary of state shall provide that notice not less than 15 days before the report is due, unless the secretary of state has reason to believe the report is needed more quickly to protect the health, safety, and welfare of a student or the public or to properly administer this act.

(3) The secretary of state may require information, a record, or other document that is required to be maintained or filed under this act to be maintained or filed electronically or as prescribed by the secretary of state.

(4) A driver education provider shall maintain information, a record, a report, or other document required under this act at its established office location.

(5) A driver education provider shall make information, a record, or other document maintained under this act available for inspection by the secretary of state or his or her authorized representative at reasonable times.

(6) If a driver education provider fails to make information, a record, or other document required under this act available for inspection at reasonable times, the secretary of state may suspend the driver education provider's certificate after notice and opportunity for a hearing.

(7) A driver education provider shall maintain a record required under this act for not less than 4 calendar years after the student has ceased receiving instruction from the provider.

256.673 Verification of instructor's certificate status.

Sec. 53. (1) A driver education provider shall verify that a driver education instructor possesses a valid driver education instructor certificate issued under this act, before employing, hiring, contracting, or otherwise engaging the person as an instructor for a driver education course.

(2) The secretary of state may prescribe the method and manner that a driver education provider shall use to verify an instructor's certificate status.

256.675 Instruction to adult or truck driver training student; verification of valid temporary instruction permit.

Sec. 55. (1) Before a driver education provider shall provide behind-the-wheel driver education course instruction to an adult or truck driver training student, the provider shall verify that the student has a valid temporary instruction permit issued by the secretary of state under section 306 of the Michigan vehicle code, 1949 PA 300, MCL 257.306.

(2) The secretary of state may prescribe the method and manner that a driver education provider shall use to verify a student's temporary instruction permit under this section.

256.677 Conviction of violation; notification to secretary of state.

Sec. 57. A certified driver education provider or instructor or a provider's designated representative or coordinator shall immediately notify the secretary of state if convicted of a violation or attempted violation listed in section 59. A certified driver education instructor or designated representative or coordinator of a provider shall also notify his or her driver education provider employer. A notice required under this section shall be in a format as prescribed by the secretary of state and comply with all of the following:

- (a) Identify the conviction.
- (b) Identify the date of the conviction.
- (c) Identify the court that imposed the conviction.
- (d) Contain other information as prescribed by the secretary of state.

256.679 Conviction information; automatic denial or revocation of application or certificate.

Sec. 59. (1) Except as otherwise provided in this section, the secretary of state shall automatically deny an original or renewal application for a driver education provider or instructor certificate and shall automatically immediately revoke a certificate issued to a person as a driver education provider or driver education instructor without the necessity for notice and an opportunity for a hearing if a criminal history check indicates that the applicant, instructor, provider, or the designated representative or coordinator of the applicant or provider has been convicted of a violation or attempted violation, or the secretary of state receives reliable notice under this section or section 57 of a conviction for a violation or attempted violation of any of the following:

(a) Criminal sexual conduct, assault with intent to commit criminal sexual conduct, or an attempt to commit criminal sexual conduct, in any degree under sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g.

(b) A felony involving a criminal assault or battery on an individual.

(c) A crime involving felonious assault on a child, child abuse in the first degree, cruelty, torture, or indecent exposure involving a child.

(d) A felony involving the manufacture, distribution, or dispensing of a controlled substance or possession with intent to manufacture, distribute, or dispense a controlled substance.

(e) A felony conviction involving fraud as an element of the crime.

(2) A denial or revocation imposed under this section shall continue for not less than 10 years from the date of the conviction.

(3) The department of information technology shall work with the secretary of state and the department of state police to develop and implement an automated program that does an annual comparison of the conviction information received by the department of state police with a secretary of state list of persons holding a driver education provider or instructor certificate and the persons designated as a representative or coordinator of a provider. This comparison shall only include persons who are actually certified as a driver education provider or instructor or who are the designated representative or coordinator of an actually certified provider at the time of the comparison. Unless otherwise prohibited by law, this comparison shall include convictions contained in a nonpublic record. The department of state police shall take all reasonable and necessary measures using the available technology to ensure the accuracy of this comparison before transmitting the information under this subsection to the secretary of state. The secretary of state shall take all reasonable and necessary measures using the available technology to ensure the

accuracy of this comparison before notifying a provider, a provider's designated representative or coordinator, or an instructor of a conviction that results in an automatic and immediate revocation of a provider or instructor certificate under this section.

(4) When the secretary of state receives reliable notice of a conviction for a violation or attempted violation under this section or section 57 by an applicant's or provider's designated representative or coordinator, the secretary of state shall automatically deny an original or renewal application for a driver education provider certificate or automatically immediately revoke a provider's certificate under this section if the applicant or provider fails to immediately terminate the designated representative's or coordinator's designation or employment as the provider's designated representative or coordinator.

256.681 Automatic denial or revocation of application or certificate; duration.

Sec. 61. (1) Except as otherwise provided in this section, the secretary of state shall automatically deny a driver education provider or instructor application or revoke a provider's or instructor's certificate without notice and an opportunity for a hearing. The denial or revocation shall remain in effect until the applicant, instructor, provider, or the designated representative or coordinator of the applicant or provider completes 5 consecutive years without a conviction for a violation or attempted violation for which 4 or more points are assessed under section 320a of the Michigan vehicle code, 1949 PA 300, MCL 257.320a.

(2) The secretary of state shall automatically deny a driver education provider or instructor application or revoke a provider's or instructor's certificate without notice and an opportunity for a hearing until the driving record of the applicant, instructor, provider, or the designated representative or coordinator of the applicant or provider does not have within the prior 2 years 1 or more of the following:

(a) Three or more driver license denials, suspensions, or revocations, or any combination of 3 or more denials, suspensions, or revocations, imposed by the secretary of state for the failure to appear in court or a failure to comply with a court judgment under section 321a of the Michigan vehicle code, 1949 PA 300, MCL 257.321a.

(b) A conviction or finding of responsibility for a traffic violation in connection with 2 or more motor vehicle accidents.

(c) An accumulation of 6 or more points under section 320(a) of the Michigan vehicle code, 1949 PA 300, MCL 257.320.

(d) A conviction under section 624a, 625(6), or 626b of the Michigan vehicle code, 1949 PA 300, MCL 257.624a, 257.625, and 257.626b.

(3) When the driving record of an applicant's or provider's designated representative or coordinator is the cause for the secretary of state to deny an application or revoke a certificate under this section, the secretary of state shall automatically deny an original or renewal application for a driver education provider certificate or automatically revoke a provider's certificate under this section if the applicant or provider fails to immediately terminate the designated representative's or coordinator's designation or employment as the provider's designated representative or coordinator.

256.683 Denial, suspension, revocation, or cancellation of driver license; suspension or revocation of driver education instructor's certificate; reinstatement.

Sec. 63. (1) The secretary of state shall automatically suspend or revoke a driver education instructor's certificate without notice and an opportunity for a hearing if the instructor's driver license is denied, suspended, revoked, or canceled by this state or another state. A driver education instructor whose driver license is denied, suspended, revoked,

or canceled by this state or another state shall immediately return his or her instructor's certificate to the secretary of state.

(2) The secretary of state may reinstate a driver education instructor's certificate suspended under this section if the instructor's driver license denial, suspension, revocation, or cancellation terminates before the instructor's certificate expires and the instructor submits a written request to the secretary of state, as prescribed by the secretary of state, for that reinstatement.

(3) The secretary of state shall not reinstate a driver education instructor certificate that is revoked under this section. A driver education instructor whose certificate is revoked may apply to the secretary of state for an original driver education instructor certificate.

256.685 Investigation; complaint; mediation; conditions for probation.

Sec. 65. (1) The secretary of state may make, on its own initiative or in response to a complaint, a reasonable and necessary investigation within or outside this state and gather evidence against a person that violated, allegedly violated, or is about to violate this act, a rule promulgated under this act, or an order issued under this act, concerning whether a person, an applicant, a driver education provider, or a driver education instructor is in compliance with this act or a rule promulgated under this act.

(2) A person may file a complaint against a person, an applicant, a driver education provider, or a driver education instructor with the secretary of state. A complaint shall be made in a format as prescribed by the secretary of state. The complaint shall be based upon a violation or attempted violation of this act or a rule promulgated under this act and shall contain all of the following information:

(a) The complainant's name, address, and telephone number.

(b) A complete statement describing the basis for the complaint.

(c) A copy of any record, report, or document that is the basis for the complaint, including a copy of the student contract, driver education course certificate of completion issued, or other documents.

(d) The complainant's signature and the date the complaint was signed.

(e) Other information as prescribed by the secretary of state.

(3) The secretary of state may mediate a dispute between a driver education provider or driver education instructor and a student or the student's parent or legal guardian when a dispute arises from a violation or attempted violation of this act or a rule promulgated under this act.

(4) The secretary of state may develop conditions of probation for the operation of a driver education provider or the training conducted by a driver education instructor. Conditions shall be set forth in a written agreement and signed by the driver education provider or driver education instructor and the secretary of state. Conditions of probation may be agreed to in place of further disciplinary proceedings.

256.687 Deceptive or unconscionable methods, acts, or practices.

Sec. 67. A driver education provider or instructor shall not engage in a deceptive or unconscionable method, act, or practice. The following are deceptive or unconscionable methods, acts, or practices:

(a) Using, adopting, or conducting business under a name that is the same as, like, or deceptively similar to, the name of another driver education provider.

(b) Except as otherwise provided in this subsection, using the word “state”, “government”, “municipal”, “city”, or “county” as part of the name of the driver education provider. This provision does not apply to an educational institution or a governmental agency.

(c) Advertising, representing, or implying that a driver education provider is supervised, recommended, or endorsed by, or affiliated or associated with, or employed by, or an agent or representative of this state, the secretary of state, or a bureau of the secretary of state.

(d) Advertising or publicizing under a name other than the provider’s full business name as identified on the provider’s application for a driver education provider certificate.

(e) Advertising that the provider is open for business before the secretary of state issues a driver education provider certificate to the provider.

(f) Soliciting business on the premises of any facility rented, leased, owned, or used by the secretary of state.

(g) Misrepresenting the quantity or quality of the instruction provided or the requirements for a driver license, endorsement, minor restricted or temporary permit, or driver education certificate.

(h) Failing to promptly restore any deposit, down payment, or other payment that a person is entitled to after an agreement is rescinded, canceled, or otherwise terminated as required under the agreement or applicable law.

(i) Taking advantage of a student’s or potential student’s inability to reasonably protect his or her interest because of a disability, illiteracy, or inability to understand the language of an agreement, if the driver education provider knows or reasonably should have known of the student’s or potential student’s inability.

(j) Failing to honor a term of a student’s, parent’s, or legal guardian’s agreement.

(k) Falsifying a document, agreement, record, report, or certificate required under this act or a rule promulgated under this act.

(l) Causing or allowing a student, parent, or legal guardian to sign a document in blank.

256.689 Sanctions.

Sec. 69. (1) Except as otherwise provided in this act, the secretary of state may impose 1 or more of the sanctions in subsection (2) after notice and opportunity for a hearing if the secretary of state determines that a person, a driver education provider, a driver education instructor, or an applicant for either a provider or instructor certificate did 1 or more of the following:

(a) Failed to meet a requirement under this act or a rule promulgated under this act.

(b) Violated this act or a rule promulgated under this act.

(c) Made an untrue or misleading statement of a material fact to the secretary of state or concealed a material fact in connection with an application for a provider or instructor certificate.

(d) Permitted fraud or engaged in a fraudulent method, act, or practice in connection with a driver license or temporary driving permit application submitted to the secretary of state, or induced or countenanced fraud or a fraudulent method, act, or practice on the part of an applicant for a driver license or permit.

(e) Engaged in an unfair or deceptive method, act, or practice or made an untrue statement of a material fact.

(f) Violated a condition of probation or suspension or an order issued under this act.

(g) Failed to maintain good moral character as defined and determined under 1974 PA 381, MCL 338.41 to 338.47, in connection with business operations.

(2) After the secretary of state determines that a person, a driver education provider, a driver education instructor, or an applicant for a provider or instructor certificate committed a violation listed in subsection (1), the secretary of state may impose upon the person, provider, instructor, or applicant 1 or more of the following sanctions:

(a) Denial of an application for a driver education provider certificate or a driver education instructor certificate.

(b) Suspension or revocation of a driver education provider certificate or a driver education instructor certificate.

(c) An administrative fine paid to the secretary of state in an amount not to exceed \$1,000.00 for each violation.

(d) A requirement to take the affirmative action determined necessary by the secretary of state, including payment of restitution to a student or to an injured person.

(3) A sanction may be imposed under subsection (2) in addition to criminal penalties otherwise imposed for the same violation under this act or by law. The remedies and sanctions under this act are independent and cumulative.

256.691 Cease and desist order; temporary cease and desist order.

Sec. 71. (1) If the secretary of state determines after notice and opportunity for a hearing that a person has committed a violation listed in section 69(1), the secretary of state may issue an order requiring the person to cease and desist from the unlawful method, act, or practice or to take an affirmative action that in the judgment of the secretary of state will carry out the purposes of this act, including, but not limited to, payment of restitution to a customer.

(2) If the secretary of state makes a finding of fact in writing that the public interest will be irreparably harmed by a delay in issuing an order, the secretary of state may issue a temporary cease and desist order. Before issuing a temporary cease and desist order, the secretary of state, when possible by telephone or otherwise, shall notify the person, the driver education provider, or the driver education instructor of the secretary of state's intention to issue a temporary cease and desist order. A temporary cease and desist order shall include in its terms a provision stating that upon request a hearing shall be held within 30 days to determine whether or not the order shall become permanent.

256.695 Summary suspension; hearing; resolution.

Sec. 75. (1) The secretary of state may order a summary suspension of a driver education provider or driver education instructor certificate pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, upon an affidavit by a person familiar with the facts set forth in the affidavit alleging a violation or attempted violation of this act, a rule promulgated under this act, or a deceptive or unconscionable method, act, or practice.

(2) The driver education provider or driver education instructor to whom the order is directed may apply to the secretary of state and shall be granted a hearing within 30 days of application pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) At the hearing, the order of summary suspension shall be set aside, continued, or modified by the secretary of state.

(4) If the order of summary suspension concerns the issuance or authorization of driver education course certificates of completion, the secretary of state may discontinue accepting certificates of completion issued or authorized by the provider for students receiving or completing instruction after the effective date of the order. The secretary of state may decide to resolve the summary suspension matter before determining a driver license issue that involves 1 or more of the certificates of completion.

256.697 Expiration or absence of certificate; proceeding with investigation, disciplinary proceeding, or other action.

Sec. 77. The expiration or absence of a driver education provider certificate or a driver education instructor certificate does not prevent the secretary of state from proceeding with an investigation, disciplinary proceeding, or other action authorized by this act against a person, a driver education provider, or a driver education instructor.

256.699 Certificate required; violation as misdemeanor; penalty; administrative fine.

Sec. 79. A person shall not engage in or offer to engage in activity as a driver education provider or a driver education instructor unless the person holds a valid certificate under this act. A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$2,000.00, or both. In addition to any other remedies provided by law, the secretary of state may impose an administrative fine of \$100.00 for each day the person is found to have engaged in activity as a driver education provider or a driver education instructor without being certified under this act.

256.701 Reimbursement; disposition.

Sec. 81. In a court proceeding involving a violation of this act, the court may order the person found guilty of violating this act to reimburse the secretary of state for the reasonable costs of the secretary of state's investigation that resulted in the conviction in addition to any other civil or criminal penalties allowed by law. Any costs collected under this section shall be deposited into the driver education provider and instructor fund created under section 83.

256.703 Driver education provider and instructor fund; creation; expenditures; investment; accounting; administration of act.

Sec. 83. (1) The driver education provider and instructor fund is created as a separate fund in the department of treasury. The fund shall be expended only as provided in this section. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall annually present to the secretary of state an accounting of the amount of money in the fund. Any unexpended and unencumbered money in the fund at the close of a fiscal year shall remain in the fund and shall not lapse or be transferred to the general fund.

(2) A nonrefundable application processing fee, a multiple vehicle driving facility review and approval fee, and an administrative fine collected under this act shall be transferred by the secretary of state to the state treasurer, who shall credit the money to the fund created under this section.

(3) The secretary of state shall expend money in the fund to administer this act. The secretary of state may deduct money from the fund to develop a driver education provider and instructor program. The secretary of state may deduct from the fund the actual administrative costs to administer this act, including any administrative costs to perform inspections, conduct investigations, or hold administrative hearings.

256.704 Deposit of revenue balance into traffic law enforcement and safety fund.

Sec. 84. After deducting the actual administrative costs of the department, the balance of the revenue from the fees collected under this act, up to an annual total of \$15,000.00, shall be deposited in the traffic law enforcement and safety fund created in section 819a of the Michigan vehicle code, 1949 PA 300, MCL 257.819a.

256.705 Rules.

Sec. 85. The secretary of state may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to carry out this act.

Rescission of R 388.351 to R 388.362 and R 388.302 to R 388.338.

Enacting section 1. The driver training schools rules, R 388.351 to R 388.362, and the driver education rules, R 388.302 to R 388.338, of the Michigan administrative code are rescinded.

Effective date.

Enacting section 2. This act takes effect October 1, 2006.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

[No. 385]**(HB 6141)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 17011 (MCL 333.17011), as amended by 1993 PA 79, and by adding section 17026.

The People of the State of Michigan enact:

333.17011 Practice of medicine or practice as physician’s assistant; license or authorization required; granting license to individuals meeting certain requirements; requirements for graduates of medical schools outside of United States or Canada; 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 pursuant to 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) 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.

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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

Compiler's note: House Bill No. 6147, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 392, Imd. Eff. Sept. 27, 2006.

[No. 386]

(HB 6148)

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces,

and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 17511 (MCL 333.17511) and by adding section 17526.

The People of the State of Michigan enact:

333.17511 Practice of osteopathic medicine and surgery or practice as physician’s assistant; license or authorization required; 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) 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.

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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

[No. 387]**(HB 6208)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 17820, 17821, and 17903 (MCL 333.17820, 333.17821, and 333.17903), section 17820 as amended by 2005 PA 281, section 17821 as amended by 1993 PA 79, and section 17903 as added by 2006 PA 54.

The People of the State of Michigan enact:

333.17820 Practice of physical therapy; license or authorization required; engaging in actual treatment upon prescription of certain license holders; use of words, titles, or letters.

Sec. 17820. (1) A person shall not engage in the practice of physical therapy unless licensed or otherwise authorized by this article. A person shall engage in the actual treatment of an individual only upon the prescription of an individual holding a license issued under part 166, 170, 175, or 180, or the equivalent license issued by another state.

(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: “physical therapy”, “physical therapist”, “physiotherapist”, “registered physical therapist”, “licensed physical therapist”, “physical therapy technician”, “p.t.”, “r.p.t.”, “l.p.t.”, and “p.t.t.”.

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 9 voting members who shall meet the requirements of part 161: 5 physical therapists 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.

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 7 members meeting the requirements of part 161:

- (a) Four athletic trainers.
- (b) One public member.
- (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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

Compiler's note: House Bill No. 6147, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 392, Imd. Eff. Sept. 27, 2006.

[No. 388]**(HB 6207)**

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 16903, 16905, and 16907 (MCL 333.16903, 333.16905, and 333.16907), as added by 1995 PA 126.

The People of the State of Michigan enact:

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”.

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 sub-systems 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.

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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

[No. 389]**(HB 6206)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 17305 (MCL 333.17305), as added by 2001 PA 139.

The People of the State of Michigan enact:

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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

[No. 390]**(HB 6205)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 17711 and 17721 (MCL 333.17711 and 333.17721), section 17721 as amended by 1993 PA 79.

The People of the State of Michigan enact:

333.17711 Practice of pharmacy; license or authorization required; use of words, titles, or letters.

Sec. 17711. (1) A person shall not engage in the practice of pharmacy 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: “pharmacy”, “pharmacist”, “apothecary”, “drugstore”, “druggist”, “medicine store”, “prescriptions”, and “r.ph.”.

333.17721 Michigan board of pharmacy; creation; membership; terms.

Sec. 17721. (1) The Michigan board of pharmacy is created in the department and shall consist of the following 11 voting members who shall meet the requirements of part 161: 6 pharmacists and 5 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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

[No. 391]**(HB 6149)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 18011 and 18021 (MCL 333.18011 and 333.18021), as amended by 2006 PA 161.

The People of the State of Michigan enact:

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: “chiropracist”, “chiropractic”, “chiropractic”, “podiatry”, “podiatrist”, “podiatric”, “doctor of podiatric medicine”, “foot specialist”, “podiatric physician and surgeon”, and “d.p.m.”.

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 shall consist 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) 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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

Compiler's note: House Bill No. 6147, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 392, Imd. Eff. Sept. 27, 2006.

[No. 392]**(HB 6147)**

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 7301a, 16111, 16122, 16139, and 16264 (MCL 333.7301a, 333.16111, 333.16122, 333.16139, and 333.16264), section 7301a as added and section 16111 as amended by 1988 PA 462 and sections 16122 and 16139 as amended by 1993 PA 80; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

333.7301a Licensing activities subject to certain provisions.

Sec. 7301a. Licensing activities conducted under this part are subject to sections 16201, 16203, 16299, 16303, 16305, 16307, 16309, and 16313.

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, 16307, 16309, and 16313, does not apply to a pharmacy, dispensing prescriber, or drug manufacturer or wholesaler who is regulated by part 177.

(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 shall not prohibit a licensee from advising a patient to seek professional services or advice from another person.

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.

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.

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.

Repeal of MCL 333.16131 and 333.16263.

Enacting section 1. Sections 16131 and 16263 of the public health code, 1978 PA 368, MCL 333.16131 and 333.16263, are repealed.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

[No. 393]**(HB 6146)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 18505 (MCL 333.18505), as amended by 2004 PA 61.

The People of the State of Michigan enact:

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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

[No. 394]**(HB 6145)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 18305 (MCL 333.18305), as amended by 1993 PA 79.

The People of the State of Michigan enact:

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 certified occupational therapists and 4 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 the appointment on December 31 of the year in which the term expires.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

[No. 395]**(HB 6143)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 18211 and 18221 (MCL 333.18211 and 333.18221), section 18221 as amended by 1993 PA 79.

The People of the State of Michigan enact:

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”.

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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

Compiler's note: House Bill No. 6147, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 392, Imd. Eff. Sept. 27, 2006.

[No. 396]**(HB 6142)**

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 16411 and 16421 (MCL 333.16411 and 333.16421), section 16411 as amended by 2002 PA 734 and section 16421 as amended by 1993 PA 79.

The People of the State of Michigan enact:

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”.

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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

Compiler's note: House Bill No. 6147, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 392, Imd. Eff. Sept. 27, 2006.

[No. 397]

(HB 6062)

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 16511 and 16521 (MCL 333.16511 and 333.16521), as added by 2006 PA 30.

The People of the State of Michigan enact:

333.16511 Use of words, titles, or letters; registration required; exceptions.

Sec. 16511. (1) Except as otherwise provided under subsection (2), after rules are promulgated under section 16145, an individual shall not use the words, titles, or letters “acupuncturist”, “certified acupuncturist”, or “registered acupuncturist”, or a combination thereof, with or without qualifying words or phrases, unless he or she is registered under this part.

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

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

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

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 shall consist of the following 9 voting members who meet the requirements of part 161:

(a) Four acupuncturists. The members initially appointed under this subdivision shall meet the requirements of section 16135.

(b) Three physicians licensed under part 170 or 175.

(c) Two public members.

(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.

Conditional effective date.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 6147 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

Compiler's note: House Bill No. 6147, referred to in enacting section 1, was filed with the Secretary of State September 27, 2006, and became 2006 PA 392, Imd. Eff. Sept. 27, 2006.

[No. 398]

(HB 6253)

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health

maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending sections 16174, 16181, 16186, 17011, and 17511 (MCL 333.16174, 333.16181, 333.16186, 333.17011, and 333.17511), section 16174 as amended by 2006 PA 26, section 16181 as amended by 2004 PA 200, section 16186 as amended by 2004 PA 3, and section 17011 as amended by 1993 PA 79.

The People of the State of Michigan enact:

333.16174 License or registration; requirements; 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 or article 7 or the rules promulgated under this article or article 7, 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 May 1, 2006, 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.

333.16181 Temporary license; nonrenewable; exception; eligibility; duration; automatically voiding; supervision; issuance.

Sec. 16181. (1) Except as otherwise provided in subsection (2), 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 pursuant to this section 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) Until January 1, 2012, the Michigan board of nursing may grant a nonrenewable, temporary license to an applicant for a license under this article 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 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 commission on graduates of foreign nursing schools 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 this article to engage in the practice of nursing as a registered professional nurse.

(3) The holder of a temporary license issued under subsection (1) 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) shall not be supervised by a licensee who holds a limited license or temporary license.

(4) The department shall promptly issue a temporary license.

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, until January 1, 2012, is licensed to practice a health profession 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, until January 1, 2012, is licensed in a province in Canada that maintains standards substantially equivalent to those of this state.

(c) Subject to subsection (3), until January 1, 2012, 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) Until January 1, 2012, 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) For purposes of 2002 PA 441, 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 Michigan licensing board, or who takes and passes a Canadian national examination approved by the appropriate Michigan licensing board, 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.

(4) If the department receives an application for licensure under part 187 from an individual who is licensed as a respiratory therapist in the country of 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 the effective date of the amendatory act that added this subsection.

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.

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”, “diplomat 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.

This act is ordered to take immediate effect.

Approved September 26, 2006.

Filed with Secretary of State September 27, 2006.

[No. 399]

(SB 880)

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," (MCL 500.100 to 500.8302) by adding chapter 41A.

The People of the State of Michigan enact:

CHAPTER 41A

ANNUITY RECOMMENDATION TO CONSUMERS

500.4151 Definitions.

Sec. 4151. As used in this chapter:

(a) “Annuity” means a fixed annuity or variable annuity that is individually solicited, whether the product is classified as an individual or group annuity.

(b) “Insurance producer” or “producer” means insurance producer as defined in section 1201 and includes a business entity described in section 1205(2) that is licensed as an insurance producer under this act.

(c) “Recommendation” means advice provided by an insurance producer, or an insurer where no producer is involved, to an individual consumer that results in a purchase or exchange of an annuity in accordance with that advice.

500.4153 Scope of act.

Sec. 4153. (1) This chapter applies to any recommendation to purchase or exchange an annuity made to a consumer by an insurance producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended.

(2) This chapter does not apply to any recommendation to purchase or exchange an annuity involving any of the following:

(a) Direct response solicitations where there is no recommendation based on information collected from the consumer.

(b) Contracts used to fund any of the following:

(i) An employee pension or welfare benefit plan that is covered by the employee retirement and income security act, Public Law 93-406.

(ii) A plan described by 26 USC 401(a), 26 USC 401(k), 26 USC 403(b), 26 USC 408(k), or 26 USC 408(p), if established or maintained by an employer.

(iii) A government or church plan defined in 26 USC 414, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax exempt organization under 26 USC 457.

(iv) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

(v) Settlements of or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process.

(vi) Formal prepaid funeral contracts.

500.4155 Purchase or exchange of annuity; recommendations; obligation to consumer; exceptions.

Sec. 4155. (1) In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer, or the insurer where no producer is involved, shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs.

(2) Prior to the execution of a purchase or exchange of an annuity resulting from a recommendation, an insurance producer, or an insurer where no producer is involved, shall make reasonable efforts to obtain all of the following information:

- (a) The consumer's financial status.
- (b) The consumer's tax status.
- (c) The consumer's investment objectives.

(d) Such other information used or considered to be reasonable by the insurance producer, or the insurer where no producer is involved, in making recommendations to the consumer.

(3) Except as provided under subsection (4), neither an insurance producer, nor an insurer where no producer is involved, shall have any obligation to a consumer under subsection (1) related to any recommendation if a consumer does any of the following:

(a) Refuses to provide relevant information requested by the insurer or insurance producer.

(b) Decides to enter into an insurance transaction that is not based on a recommendation of the insurer or insurance producer.

(c) Fails to provide complete or accurate information.

(4) An insurer or insurance producer's recommendation subject to subsection (1) shall be reasonable under all the circumstances actually known to the insurer or insurance producer at the time of the recommendation.

500.4157 System to supervise recommendations of insurance producers; establishment; maintenance; reasonable inquiry; contracts with third party; certification.

Sec. 4157. (1) An insurer either shall assure that a system to supervise recommendations that is reasonably designed to achieve compliance with this chapter is established and maintained by complying with subsections (3) to (5), or shall establish and maintain such a system, including, but not limited to, maintaining written procedures and conducting periodic reviews of its records that are reasonably designed to assist in detecting and preventing violations of this chapter.

(2) An insurance producer either shall adopt a system established by an insurer to supervise recommendations of its insurance producers that is reasonably designed to achieve compliance with this chapter, or shall establish and maintain such a system, including, but not limited to, maintaining written procedures and conducting periodic reviews of records that are reasonably designed to assist in detecting and preventing violations of this chapter.

(3) An insurer may contract with a third party, including an insurance producer, to establish and maintain a system of supervision as required under subsection (1) of insurance producers under contract with or employed by the third party.

(4) An insurer shall make reasonable inquiry to assure that the third party contracting under subsection (3) is performing the functions required under subsection (1) and shall take such action as is reasonable under the circumstances to enforce the contractual obligation to perform the functions. An insurer may comply with its obligation to make reasonable inquiry by doing all of the following:

(a) By annually obtaining a certification from a third party senior manager that the third party contracting under subsection (3) is performing the required functions. Only a person who is a senior manager with responsibility for the delegated functions and who has a reasonable basis for making the certification shall provide a certification under this subdivision.

(b) By periodically selecting, based on reasonable selection criteria, third parties contracting under subsection (3) for a review to determine whether the third parties are performing the required functions. The insurer shall perform those procedures to conduct the review that are reasonable under the circumstances.

(5) An insurer that contracts with a third party pursuant to subsection (3) and that complies with the requirements to supervise under subsection (4) will be considered to have met its responsibilities under subsection (1).

(6) An insurer or insurance producer is not required under subsection (1) or (2) to do any of the following:

(a) Review, or provide for review of, all insurance producer solicited transactions.

(b) Include in its system of supervision an insurance producer's recommendations to consumers of products other than the annuities offered by the insurer or insurance producer.

(7) An insurance producer contracting with an insurer pursuant to subsection (3) shall promptly, when requested by the insurer pursuant to subsection (4), give a certification as described in subsection (4) or give a clear statement that it is unable to meet the certification criteria.

500.4163 Records; maintenance, availability.

Sec. 4163. (1) An insurer and an insurance producer shall maintain or be able to make available to the commissioner records of the information collected from the consumer and other information used in making the recommendations that were the basis for insurance transactions for 5 years after the insurance transaction is completed by the insurer. An insurer is permitted, but is not required, to maintain documentation on behalf of an insurance producer.

(2) Records required to be maintained by this chapter may be maintained in paper, photographic, microprocess, magnetic, mechanical, or electronic media or by any process that accurately reproduces the actual document.

500.4165 Compliance with rules.

Sec. 4165. An insurer or insurance producer that complies with the national association of securities dealers rules "NASD Manual, Conduct Rules section 2310 (CCH, 1966)" or rules at least as stringent as section 2310 pertaining to suitability satisfies this chapter's requirements for the recommendation of variable annuities.

This act is ordered to take immediate effect.

Approved September 29, 2006.

Filed with Secretary of State September 29, 2006.

[No. 400]

(SB 875)

AN ACT to amend 1943 PA 20, entitled "An act relative to the investment of funds of public corporations of the state; and to validate certain investments," by amending section 1 (MCL 129.91), as amended by 1997 PA 196.

The People of the State of Michigan enact:

129.91 Investment of funds of public corporations; eligible depository; secured deposits; pooling or coordinating funds; written agreements; funds limitation on acceptable assets; “financial institution” defined; additional definitions.

Sec. 1. (1) Except as provided in section 5, the governing body by resolution may authorize its investment officer to invest the funds of that public corporation in 1 or more of the following:

(a) Bonds, securities, and other obligations of the United States or an agency or instrumentality of the United States.

(b) Certificates of deposit, savings accounts, deposit accounts, or depository receipts of a financial institution, but only if the financial institution complies with subsection (2).

(c) Commercial paper rated at the time of purchase within the 2 highest classifications established by not less than 2 standard rating services and that matures not more than 270 days after the date of purchase.

(d) Repurchase agreements consisting of instruments listed in subdivision (a).

(e) Bankers’ acceptances of United States banks.

(f) Obligations of this state or any of its political subdivisions that at the time of purchase are rated as investment grade by not less than 1 standard rating service.

(g) Mutual funds registered under the investment company act of 1940, title I of chapter 686, 54 Stat. 789, 15 USC 80a-1 to 80a-3 and 80a-4 to 80a-64, with authority to purchase only investment vehicles that are legal for direct investment by a public corporation. However, a mutual fund is not disqualified as a permissible investment solely by reason of either of the following:

(i) The purchase of securities on a when-issued or delayed delivery basis.

(ii) The ability to lend portfolio securities as long as the mutual fund receives collateral at all times equal to at least 100% of the value of the securities loaned.

(iii) The limited ability to borrow and pledge a like portion of the portfolio’s assets for temporary or emergency purposes.

(h) Obligations described in subdivisions (a) through (g) if purchased through an interlocal agreement under the urban cooperation act of 1967, 1967 (Ex Sess) PA 7, MCL 124.501 to 124.512.

(i) Investment pools organized under the surplus funds investment pool act, 1982 PA 367, MCL 129.111 to 129.118.

(j) The investment pools organized under the local government investment pool act, 1985 PA 121, MCL 129.141 to 129.150.

(2) A public corporation that invests its funds under subsection (1) shall not deposit or invest the funds in a financial institution that is not eligible to be a depository of funds belonging to the state under a law or rule of this state or the United States.

(3) Assets acceptable for pledging to secure deposits of public funds are limited to assets authorized for direct investment under subsection (1).

(4) The governing body by resolution may authorize its investment officer to enter into written agreements with other public corporations to pool or coordinate the funds to be

invested under this section with the funds of other public corporations. Agreements allowed under this subsection shall include all of the following:

- (a) The types of investments permitted to be purchased with pooled funds.
 - (b) The rights of members of the pool to withdraw funds from the pooled investments without penalty.
 - (c) The duration of the agreement and the requirement that the agreement shall not commence until at least 60 days after the public corporations entering the agreement give written notice to an existing local government investment pool which is organized pursuant to the local government investment pool act, 1985 PA 121, MCL 129.141 to 129.150, in those counties where such a pool is operating and accepting deposits on or before the effective date of the amendatory act adding this subsection.
 - (d) The method by which the pool will be administered.
 - (e) The manner by which the public corporations will respond to liabilities incurred in conjunction with the administration of the pool.
 - (f) The manner in which strict accountability for all funds will be provided for, including an annual statement of all receipts and disbursements.
 - (g) The manner by which the public corporations will adhere to the requirements of section 5.
- (5) As used in this section, “financial institution” means a state or nationally chartered bank or a state or federally chartered savings and loan association, savings bank, or credit union whose deposits are insured by an agency of the United States government and that maintains a principal office or branch office located in this state under the laws of this state or the United States.
- (6) As used in this act:
- (a) “Governing body” means the legislative body, council, commission, board, or other body having legislative powers of a public corporation.
 - (b) “Funds” means the money of a public corporation, the investment of which is not otherwise subject to a public act of this state or bond authorizing ordinance or resolution of a public corporation that permits investment in fewer than all of the investment options listed in subsection (1) or imposes 1 or more conditions upon an investment in an option listed in subsection (1).
 - (c) “Investment officer” means the treasurer or other person designated by statute or charter of a public corporation to act as the investment officer. In the absence of a statutory or charter designation, the governing body of a public corporation shall designate the investment officer.
 - (d) “Public corporation” means a county, city, village, township, port district, drainage district, special assessment district, or metropolitan district of this state, or a board, commission, or another authority or agency created by or under an act of the legislature of this state.

This act is ordered to take immediate effect.

Approved September 29, 2006.

Filed with Secretary of State September 29, 2006.

[No. 401]**(HB 4861)**

AN ACT to amend 1931 PA 328, entitled “An act to revise, consolidate, codify, and add to the statutes relating to crimes; to define crimes and prescribe the penalties and remedies; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act,” by amending sections 224, 224d, and 231 (MCL 750.224, 750.224d, and 750.231), section 224 as amended by 1991 PA 33, section 224d as amended by 1992 PA 4, and section 231 as amended by 2002 PA 536.

The People of the State of Michigan enact:

750.224 Weapons; manufacture, sale, or possession as felony; violation as felony; penalty; exceptions; “muffler” or “silencer” defined.

Sec. 224. (1) A person shall not manufacture, sell, offer for sale, or possess any of the following:

- (a) A machine gun or firearm that shoots or is designed to shoot automatically more than 1 shot without manual reloading, by a single function of the trigger.
- (b) A muffler or silencer.
- (c) A bomb or bombshell.
- (d) A blackjack, slungshot, billy, metallic knuckles, sand club, sand bag, or bludgeon.
- (e) A device, weapon, cartridge, container, or contrivance designed to render a person temporarily or permanently disabled by the ejection, release, or emission of a gas or other substance.

(2) A person who violates subsection (1) is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$2,500.00, or both.

(3) Subsection (1) does not apply to any of the following:

- (a) A self-defense spray or foam device as defined in section 224d.
- (b) A person manufacturing firearms, explosives, or munitions of war by virtue of a contract with a department of the government of the United States.
- (c) A person licensed by the secretary of the treasury of the United States or the secretary’s delegate to manufacture, sell, or possess a machine gun, or a device, weapon, cartridge, container, or contrivance described in subsection (1).

(4) As used in this chapter, “muffler” or “silencer” means 1 or more of the following:

- (a) A device for muffling, silencing, or deadening the report of a firearm.
- (b) A combination of parts, designed or redesigned, and intended for use in assembling or fabricating a muffler or silencer.
- (c) A part, designed or redesigned, and intended only for use in assembling or fabricating a muffler or silencer.

750.224d Self-defense spray or foam device.

Sec. 224d. (1) As used in this section and section 224, “self-defense spray or foam device” means a device to which all of the following apply:

- (a) The device is capable of carrying, and ejects, releases, or emits 1 of the following:
 - (i) Not more than 35 grams of any combination of orthochlorobenzalmalononitrile and inert ingredients.

(ii) A solution containing not more than 10% oleoresin capsicum.

(b) The device does not eject, release, or emit any gas or substance that will temporarily or permanently disable, incapacitate, injure, or harm a person with whom the gas or substance comes in contact, other than the substance described in subdivision (a)(i) or (ii).

(2) Except as otherwise provided in this section, a person who uses a self-defense spray or foam device to eject, release, or emit orthochlorobenzalmalononitrile or oleoresin capsicum at another person is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or a fine of not more than \$2,000.00, or both.

(3) If a person uses a self-defense spray or foam device during the commission of a crime to eject, release, or emit orthochlorobenzalmalononitrile or oleoresin capsicum or threatens to use a self-defense spray or foam device during the commission of a crime to temporarily or permanently disable another person, the judge who imposes sentence upon a conviction for that crime shall consider the defendant's use or threatened use of the self-defense spray or foam device as a reason for enhancing the sentence.

(4) A person shall not sell a self-defense spray or foam device to a minor. A person who violates this subsection is guilty of a misdemeanor.

(5) Subsection (2) does not prohibit either of the following:

(a) The reasonable use of a self-defense spray or foam device containing not more than 10% oleoresin capsicum by a person who is employed by a county sheriff or a chief of police and who is authorized in writing by the county sheriff or chief of police to carry and use a self-defense spray or foam device and has been trained in the use, effects, and risks of the device, while in performance of his or her official duties.

(b) The reasonable use of a self-defense spray or foam device containing not more than 2% oleoresin capsicum by a person in the protection of a person or property under circumstances which would justify the person's use of physical force.

750.231 MCL 750.224, 750.224a, 750.224b, 750.224d, 750.226a, 750.227, 750.227c, and 750.227d inapplicable to certain persons and organizations.

Sec. 231. (1) Except as provided in subsection (2), sections 224, 224a, 224b, 224d, 226a, 227, 227c, and 227d do not apply to any of the following:

(a) A peace officer of an authorized police agency of the United States, of this state, or of a political subdivision of this state, who is regularly employed and paid by the United States, this state, or a political subdivision of this state.

(b) A person who is regularly employed by the state department of corrections and who is authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

(c) A person employed by a private vendor that operates a youth correctional facility authorized under section 20g of 1953 PA 232, MCL 791.220g, who meets the same criteria established by the director of the state department of corrections for departmental employees described in subdivision (b) and who is authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

(d) A member of the United States army, air force, navy, or marine corps or the United States coast guard while carrying weapons in the line of or incidental to duty.

(e) An organization authorized by law to purchase or receive weapons from the United States or from this state.

(f) A member of the national guard, armed forces reserve, the United States coast guard reserve, or any other authorized military organization while on duty or drill, or in going to or returning from a place of assembly or practice, while carrying weapons used for a purpose of the national guard, armed forces reserve, United States coast guard reserve, or other duly authorized military organization.

(g) A security employee employed by the state and granted limited arrest powers under section 6c of 1935 PA 59, MCL 28.6c.

(h) A motor carrier officer appointed under section 6d of 1935 PA 59, MCL 28.6d.

(2) As applied to section 224a(1) only, subsection (1) is not applicable to an individual included under subsection (1)(a), (b), or (c) unless he or she has been trained on the use, effects, and risks of using a portable device or weapon described in section 224a(1).

Effective date.

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

This act is ordered to take immediate effect.

Approved September 29, 2006.

Filed with Secretary of State September 29, 2006.

[No. 402]

(HB 5193)

AN ACT to amend 1994 PA 295, entitled “An act to require persons convicted of certain offenses to register; to prohibit certain individuals from engaging in certain activities within a student safety zone; to prescribe the powers and duties of certain departments and agencies in connection with that registration; and to prescribe fees, penalties, and sanctions,” by amending section 5 (MCL 28.725), as amended by 2005 PA 132.

The People of the State of Michigan enact:

28.725 Change of domicile or residence; notice requirements; release of incarcerated individual; notice to sheriff’s department.

Sec. 5. (1) An individual required to be registered under this act shall notify the local law enforcement agency or sheriff’s department having jurisdiction where his or her new residence or domicile is located or the department post of the individual’s new residence or domicile within 10 days after the individual changes or vacates his or her residence, domicile, or place of work or education, including any change required to be reported under section 4a.

(2) If an individual who is incarcerated in a state correctional facility and is required to be registered under this act is granted parole or is due to be released upon completion of his or her maximum sentence, the department of corrections, before releasing the individual, shall provide notice of the location of the individual’s proposed place of residence or domicile to the sheriff’s department having jurisdiction over that location or to the appropriate state police department post.

(3) Within 10 days after either of the following occurs, the department of corrections shall notify the local law enforcement agency or sheriff’s department having jurisdiction

over the area to which the individual is transferred or the department post of the transferred residence or domicile of an individual required to be registered under this act:

(a) The individual is transferred to a community residential program.

(b) The individual is transferred into a minimum custody correctional facility of any kind, including a correctional camp or work camp.

(4) An individual required to be registered under this act shall notify the department on a form prescribed by the department not later than 10 days before he or she changes his or her domicile or residence to another state. The individual shall indicate the new state and, if known, the new address. The department shall update the registration and compilation databases and promptly notify the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state.

(5) If the probation or parole of an individual required to be registered under this act is transferred to another state or an individual required to be registered under this act is transferred from a state correctional facility to any correctional facility or probation or parole in another state, the department of corrections shall promptly notify the department and the appropriate law enforcement agency and any applicable sex or child offender registration authority in the new state. The department shall update the registration and compilation databases.

(6) An individual registered under this act shall comply with the verification procedures and proof of residence procedures prescribed in sections 4a and 5a.

(7) Except as provided in subsections (8) and (9), an individual shall comply with this section for 25 years after the date of initially registering or, if the individual is in a state correctional facility, for 10 years after release from the state correctional facility, whichever is longer.

(8) Except as provided in subsection (9), an individual shall comply with this section for life if the individual is convicted of any of the following or a substantially similar offense under a law of the United States, any state, or any country or under tribal or military law:

(a) A violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b.

(b) A violation of section 520c(1)(a) of the Michigan penal code, 1931 PA 328, MCL 750.520c.

(c) A violation of section 349 of the Michigan penal code, 1931 PA 328, MCL 750.349, if the victim is less than 18 years of age.

(d) A violation of section 350 of the Michigan penal code, 1931 PA 328, MCL 750.350.

(e) A violation of section 145c(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(f) An attempt or conspiracy to commit an offense described in subdivisions (a) to (e).

(g) Except as provided in this subdivision, a second or subsequent listed offense after October 1, 1995 regardless of when any earlier listed offense was committed. An individual is not required to comply with this section for life if his or her first or second listed offense is for a conviction on or before September 1, 1999 for an offense that was added on September 1, 1999 to the definition of listed offense, unless he or she is convicted of a subsequent listed offense after September 1, 1999.

(9) An individual who is ordered to register as provided in section 8d shall register subject to that section.

Effective date.

Enacting section 1. This amendatory act takes effect December 1, 2006.

Conditional effective date.

Enacting section 2. This amendatory act does not take effect unless House Bill No. 5194 of the 93rd Legislature is enacted into law.

This act is ordered to take immediate effect.

Approved September 29, 2006.

Filed with Secretary of State September 29, 2006.

Compiler's note: House Bill No. 5194, referred to in enacting section 2, was filed with the Secretary of State September 29, 2006, and became 2006 PA 403, Eff. Dec. 1, 2006.

[No. 403]**(HB 5194)**

AN ACT to amend 1953 PA 232, entitled "An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to provide for a lifetime electronic monitoring program; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending section 36 (MCL 791.236), as amended by 2006 PA 316.

The People of the State of Michigan enact:

791.236 Order of parole; signature by chairperson; notice; rescission; amendment; conditions; supervision; restitution; payment of parole supervision fee; condition requiring payment of assessment or minimum state cost; compliance with sex offenders registration act; violation of certain sections; condition requiring housing in community corrections center or community residential home; condition requiring payment by parolee; review to ensure payment of restitution; report of violation; registration of parolee; electronic monitoring; condition to protect named person; release of prisoner; notice of residence or domicile; "violent felony" defined.

Sec. 36. (1) All paroles shall be ordered by the parole board and shall be signed by the chairperson. Written notice of the order shall be given to the sheriff or other police officer of the municipality or county in which the prisoner was convicted, and to the sheriff or other local police officer of the municipality or county to which the paroled prisoner is sent.

(2) A parole order may be rescinded at the discretion of the parole board for cause before the prisoner is released on parole. A parole shall not be revoked unless an interview with the prisoner is conducted by 1 member of the parole board. The purpose of the interview