

Act No. 247
Public Acts of 1990
Approved by the Governor
October 11, 1990
Filed with the Secretary of State
October 12, 1990

**STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990**

Introduced by Rep. Bennane

ENROLLED HOUSE BILL No. 5702

AN ACT to amend sections 16103, 17001, 17048, 17050, 17060, 17066, 17074, 17076, 17078, 17088, 17501, 17548, and 17550 of Act No. 368 of the Public Acts of 1978, entitled as amended "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 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 penalties and remedies; 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," section 17048 as amended by Act No. 174 of the Public Acts of 1986, sections 17060 and 17066 as amended by Act No. 290 of the Public Acts of 1986, and sections 17088 and 17548 as amended by Act No. 462 of the Public Acts of 1988, being sections 333.16103, 333.17001, 333.17048, 333.17050, 333.17060, 333.17066, 333.17074, 333.17076, 333.17078, 333.17088, 333.17501, 333.17548, and 333.17550 of the Michigan Compiled Laws; to add sections 17049 and 17549; and to repeal certain parts of the act.

The People of the State of Michigan enact:

Section 1. Sections 16103, 17001, 17048, 17050, 17060, 17066, 17074, 17076, 17078, 17088, 17501, 17548, and 17550 of Act No. 368 of the Public Acts of 1978, section 17048 as amended by Act No. 174 of the Public Acts of 1986, sections 17060 and 17066 as amended by Act No. 290 of the Public Acts of 1986, sections 17088 and 17548 as amended by Act No. 462 of the Public Acts of 1988, being sections 333.16103, 333.17001, 333.17048, 333.17050, 333.17060, 333.17066, 333.17074, 333.17076, 333.17078, 333.17088, 333.17501, 333.17548, and

333.17550 of the Michigan Compiled Laws, are amended and sections 17049 and 17549 are added to read as follows:

Sec. 16103. (1) "Board" as used in this part means each board created in this article and as used in any other part covering a specific health profession means the board created in that part.

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

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

(4) "Council" means the health occupations council created in section 16151.

Sec. 17001. (1) As used in this part:

(a) "Academic institution" means either of the following:

(i) A medical school approved by the board.

(ii) A hospital licensed under article 17 that meets all of the following requirements:

(A) Was the sole sponsor or a co-sponsor, if each other co-sponsor is either a medical school approved by the board or a hospital owned by the federal government and directly operated by the United States department of veterans' affairs, of not less than 4 postgraduate education residency programs approved by the board under section 17031(1) for not less than the 3 years immediately preceding the date of an application for a limited license under section 16182(2)(c) or an application for a full license under section 17031(2), provided that at least 1 of the residency programs is in the specialty area of medical practice, or in a specialty area that includes the subspecialty of medical practice, in which the applicant for a limited license proposes to practice or in which the applicant for a full license has practiced for the hospital.

(B) Has spent not less than \$2,000,000.00 for medical education during each of the 3 years immediately preceding the date of an application for a limited license under section 16182(2)(c) or an application for a full license under section 17031(2). As used in this subparagraph, "medical education" means the education of physicians and candidates for degrees or licenses to become physicians, including, but not limited to, physician staff, residents, interns, and medical students.

(b) "Medical care services" means those services within the scope of practice of physicians licensed by the board, except those services that the board determines shall not be delegated by a physician without endangering the health and safety of patients as provided for in section 17048(3).

(c) "Physician" means an individual licensed under this article to engage in the practice of medicine.

(d) "Practice of medicine" means the diagnosis, treatment, prevention, cure, or relieving of a human disease, ailment, defect, complaint, or other physical or mental condition, by attendance, advice, device, diagnostic test, or other means, or offering, undertaking, attempting to do, or holding oneself out as able to do, any of these acts.

(e) "Practice as a physician's assistant" means the practice of medicine or osteopathic medicine and surgery performed under the supervision of a physician or physicians licensed under this part or part 175.

(f) "Supervision" means that term as defined in section 16109, except that it also includes the existence of a predetermined plan for emergency situations, including, but not limited to, the designation of a physician to supervise a physician's assistant in the absence of the primary supervising physician.

(g) "Task force" means the joint task force created in sections 17025 and 17525.

(2) In addition to the definitions in this part, article 1 contains definitions and principles of construction applicable to all articles in this code and part 161 contains definitions applicable to this part.

Sec. 17048. (1) Except as otherwise provided in this subsection and section 17049(5), a physician who is a sole practitioner or who practices in a group of physicians and treats patients on an outpatient basis shall not supervise more than 4 physician's assistants. If a physician described in this subsection supervises physician's assistants at more than 1 practice site, the physician shall not supervise more than 2 physician's assistants by a method other than the physician's actual physical presence at the practice site.

(2) A physician who is employed by, under contract or subcontract to, or has privileges at a health facility or agency licensed under article 17 or a state correctional facility may supervise more than 4 physician's assistants at the health facility or agency or correctional facility.

(3) To the extent that a particular selected medical care service requires extensive medical training, education, or ability or pose serious risks to the health and safety of patients, the board may prohibit or otherwise restrict the delegation of that medical care service or may require higher levels of supervision.

(4) A physician shall not delegate ultimate responsibility for the quality of medical care services, even if the services are provided by a physician's assistant.

(5) The board may promulgate rules for the delegation by a supervising physician to a physician's assistant of the function of prescription of drugs. The rules may define the drugs or classes of drugs which may not be delegated and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws. Until the rules are promulgated, a supervising physician may delegate the prescription of drugs other than controlled substances as defined by article 7 or federal law. When delegated prescription occurs, both the physician's assistant's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription.

Sec. 17049. (1) In addition to the other requirements of this section and subject to subsection (5), a physician who supervises a physician's assistant is responsible for all of the following:

- (a) Verification of the physician's assistant's credentials.
- (b) Evaluation of the physician's assistant's performance.
- (c) Monitoring the physician's assistant's practice and provision of medical care services.

(2) Subject to section 17048, a physician who supervises a physician's assistant may delegate to the physician's assistant the performance of medical care services for a patient who is under the case management responsibility of the physician, if the delegation is consistent with the physician's assistant's training.

(3) A physician who supervises a physician's assistant is responsible for the clinical supervision of each physician's assistant to whom the physician delegates the performance of medical care service under subsection (2).

(4) Subject to subsection (5), a physician who supervises a physician's assistant shall keep on file in the physician's office or in the health facility or agency or correctional facility in which the physician supervises the physician's assistant a permanent, written record that includes the physician's name and license number and the name and license number of each physician's assistant supervised by the physician.

(5) A group of physicians practicing other than as sole practitioners may designate 1 or more physicians in the group to fulfill the requirements of subsections (1) and (4).

Sec. 17050. In addition to its other powers and duties under this article, the board may prohibit a physician from supervising 1 or more physician's assistants for any of the grounds set forth in section 16221 or for failure to supervise a physician's assistant in accordance with this part and rules promulgated under this part.

Sec. 17060. The task force shall:

(a) Promulgate rules necessary for the implementation of its powers and duties and may perform the acts and make the determinations necessary for the proper implementations of those powers and duties.

(b) Promulgate rules to establish the requirements for the education, training, or experience of physician's assistants for licensure in this state. The requirements shall take into account nationally recognized standards for education, training, and experience and the desired utilization of physician's assistants.

(c) Develop and make public guidelines on the appropriate delegation of functions to and supervision of physician's assistants according to the level of education, training, or experience of physician's assistants. The guidelines are not binding, but shall serve to explain how the task force's training criteria coincides with the board's expectation for delegation to and supervision of physician's assistants by physicians.

(d) Direct the department to issue licenses to applicants who meet the requirements of this part and the rules promulgated under this part for practice and use of the title of physician's assistant.

(e) Promulgate rules to establish criteria for the evaluation of programs for the education and training of physician's assistants for the purpose of determining whether graduates of the programs have the knowledge and skills requisite for practice and use of the title physician's assistant in this state as defined by this part and the rules promulgated under this part. The criteria established shall be substantially consistent with nationally recognized standards for the education and training of physician's assistants. Until the criteria are established, the criteria developed by the advisory commission on physician's assistants shall remain in effect. The task force shall consider and may use where appropriate the criteria established by professional associations, education accrediting bodies, or governmental agencies. In establishing criteria for the evaluation of education and training programs, the task force may seek the advice of the boards and the department of education.

(f) Make written recommendations to the boards concerning the rules to be developed for approval by the boards of physicians to supervise physician's assistants, including recommendations for appropriate utilization of physician's assistants by level of preparation where appropriate.

(g) File an annual report with the department and the boards containing matters prescribed by the department and boards.

Sec. 17066. The standards and decisions regarding the qualifications of physician's assistants shall be designed to determine that each physician's assistant has the necessary knowledge and skill to perform in a safe and competent manner with due regard to the complexity and risks attendant to activities that may be delegated by a physician to a physician's assistant.

Sec. 17074. (1) A physician's assistant shall not undertake or represent that he or she is qualified to undertake provision of a medical care service that he or she knows or reasonably should know to be outside his or her competence or is prohibited by law.

(2) A physician's assistant shall not:

(a) Perform acts, tasks, or functions to determine the refractive state of a human eye or to treat refractive anomalies of the human eye, or both.

(b) Determine the spectacle or contact lens prescription specifications required to treat refractive anomalies of the human eye, or determine modification of spectacle or contact lens prescription specifications, or both.

(3) A physician's assistant may perform routine visual screening or testing, postoperative care, or assistance in the care of medical diseases of the eye under the supervision of a physician.

Sec. 17076. (1) Except in an emergency situation, a physician's assistant shall provide medical care services only under the supervision of a physician or properly designated alternative physician, and only if those medical care services are within the scope of practice of the supervising physician and are delegated by the supervising physician.

(2) A physician's assistant shall provide medical care services only in a medical care setting where the supervising physician regularly sees patients. However, a physician's assistant may make calls or go on rounds in private homes, public institutions, emergency vehicles, ambulatory care clinics, hospitals, intermediate or extended care facilities, health maintenance organizations, nursing homes, or other health care facilities to the extent permitted by the bylaws, rules, or regulations of the facilities or organizations under the supervision of a physician.

(3) A physician's assistant may prescribe drugs as a delegated act of a supervising physician, but shall do so only in accordance with procedures and protocol for the prescription established by the boards in rule. Until the rules are promulgated, a physician's assistant may prescribe a drug other than a controlled substance as defined by article 7 or federal law, as a delegated act of the supervising physician. When delegated prescription occurs, the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription so that the individual who dispenses or administers the prescription knows under whose delegated authority the physician's assistant is prescribing.

Sec. 17078. (1) A physician's assistant is the agent of the supervising physician. A communication made to a physician's assistant that would be a privileged communication if made to the supervising physician is a privileged communication to the physician's assistant and the supervising physician to the same extent as if the communication were made to the supervising physician.

(2) A physician's assistant shall conform to minimal standards of acceptable and prevailing practice for the supervising physician.

Sec. 17088. (1) An application for reinstatement of a revoked license may be made to the task force not less than 3 years after the effective date of the revocation. An application for reinstatement of a suspended license or reclassification of a limited license may be made at a time fixed by the task force.

(2) The task force may direct a board to issue a license with any limitations the task force determines are appropriate, if, after a hearing, the task force is satisfied that the applicant is of good moral character, is able to provide medical care services under the supervision of a physician in a safe and competent fashion, and should be permitted in the public interest to resume practice. As a condition to the reinstatement or reclassification, the task force may impose corrective measures including additional education or training or special supervision.

Sec. 17501. (1) As used in this part:

(a) "Medical care services" means those services within the scope of practice of physicians licensed and approved by the board, except those services that the board determines shall not be delegated by a physician without endangering the health and safety of patients as provided for in section 17548(3).

(b) "Physician" means an individual licensed under this article to engage in the practice of osteopathic medicine and surgery.

(c) "Practice of osteopathic medicine and surgery" means a separate, complete, and independent school of medicine and surgery utilizing full methods of diagnosis and treatment in physical and mental health and disease, including the prescription and administration of drugs and biologicals, operative surgery, obstetrics, radiological and other electromagnetic emissions, and placing special emphasis on the interrelationship of the musculoskeletal system to other body systems.

(d) "Practice as a physician's assistant" means the practice of osteopathic medicine performed under the supervision of a physician licensed under this part or part 170.

(e) "Supervision" has the meaning ascribed to it in section 16109 except that it includes the existence of a predetermined plan for emergency situations, including, but not limited to, the designation of a physician to supervise a physician's assistant in the absence of the primary supervising physician.

(f) "Task force" means the joint task force created in sections 17025 and 17525.

(2) In addition to the definitions in this part, article 1 contains general definitions and principles of construction applicable to all articles in the code and part 161 contains definitions applicable to this part.

Sec. 17548. (1) Except as otherwise provided in this subsection and section 17549(5), a physician who is a sole practitioner or who practices in a group of physicians and treats patients on an outpatient basis shall not supervise more than 4 physician's assistants. If a physician described in this subsection supervises physician's assistants at more than 1 practice site, the physician shall not supervise more than 2 physician's assistants by a method other than the physician's actual physical presence at the practice site.

(2) A physician who is employed by or under contract or subcontract to or has privileges at a health facility licensed under article 17 or a state correctional facility may supervise more than 4 physician's assistants at the health facility or agency or correctional facility.

(3) To the extent that a particular selected medical care service requires extensive medical training, education, or ability or pose serious risks to the health and safety of patients, the board may prohibit or otherwise restrict the delegation of that medical care service or may require higher levels of supervision.

(4) A physician shall not delegate ultimate responsibility for the quality of medical care services, even if the services are provided by a physician's assistant.

(5) The board may promulgate rules for the delegation by a supervising physician to a physician's assistant of the function of prescription of drugs. The rules may define the drugs or classes of drugs which may not be delegated and other procedures and protocols necessary to promote consistency with federal and state drug control and enforcement laws. Until the rules are promulgated, a supervising physician may delegate the prescription of drugs other than controlled substances as defined by article 7 or federal law. When delegated prescription occurs, both the physician's assistant's name and the supervising physician's name shall be used, recorded, or otherwise indicated in connection with each individual prescription.

Sec. 17549. (1) In addition to the other requirements of this section and subject to subsection (5), a physician who supervises a physician's assistant is responsible for all of the following:

(a) Verification of the physician's assistant's credentials.

(b) Evaluation of the physician's assistant's performance.

(c) Monitoring the physician's assistant's practice and provision of medical care services.

(2) Subject to section 17548, a physician who supervises a physician's assistant may delegate to the physician's assistant the performance of medical care services for a patient who is under the case management responsibility of the physician, if the delegation is consistent with the physician's assistant's training.

(3) A physician who supervises a physician's assistant is responsible for the clinical supervision of each physician's assistant to whom the physician delegates the performance of medical care service under subsection (2).

(4) Subject to subsection (5), a physician who supervises a physician's assistant shall keep on file in the physician's office or in the health facility or agency or state correctional facility in which the physician supervises the physician's assistant a permanent, written record that includes the physician's name and license number and the name and license number of each physician's assistant supervised by the physician.

(5) A group of physicians practicing other than as sole practitioners may designate 1 or more physicians in the group to fulfill the requirements of subsections (1) and (4).

Sec. 17550. In addition to its other powers and duties under this article, the board may prohibit a physician from supervising 1 or more physician's assistants for any of the grounds set forth in section 16221 or for failure to supervise a physician's assistant in accordance with this part and rules promulgated under this part.

Section 2. Sections 17040, 17042, 17044, 17046, 17047, 17540, 17542, 17544, 17546, and 17547 of Act No. 368 of the Public Acts of 1978, being sections 333.17040, 333.17042, 333.17044, 333.17046, 333.17047, 333.17540, 333.17542, 333.17544, 333.17546, and 333.17547 of the Michigan Compiled Laws, are repealed.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved

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Governor.