

# HOUSE BILL No. 4326

March 2, 1989, Introduced by Reps. Hertel, Bennane, Emerson, Hood, Griffin, Leland, DeMars, Hoffman and Law and referred to the Committee on Public Health.

A bill to amend sections 16131 and 16263 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

as amended by Act No. 473 of the Public Acts of 1988, being sections 333.16131 and 333.16263 of the Michigan Compiled Laws; and to add part 179.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 16131 and 16263 of Act No. 368 of the  
2 Public Acts of 1978, as amended by Act No. 473 of the Public Acts  
3 of 1988, being sections 333.16131 and 333.16263 of the Michigan  
4 Compiled Laws, are amended and part 179 is added to read as  
5 follows;

6       Sec. 16131. The terms of office of individual members of  
7 the council or the boards and task forces, except those appointed

1 to fill vacancies, shall expire 4 years after appointment as  
2 follows:

3	Nursing	June 30
4	Optometry	June 30
5	Pharmacy	June 30
6	Podiatric medicine and surgery	June 30
7	Dentistry	June 30
8	Chiropractic	December 31
9	Counseling	June 30
10	Health occupations council	December 31
11	Medicine	December 31
12	Occupational therapists	December 31
13	Osteopathic medicine and surgery	December 31
14	Physical therapy	December 31
15	Psychology	December 31
16	RESPIRATORY CARE	DECEMBER 31
17	Sanitarians	December 31
18	Veterinary medicine	December 31

19 Sec. 16263. (1) Except as provided in subsection (2), the  
20 following words, titles, or letters or a combination thereof,  
21 with or without qualifying words or phrases, are restricted in  
22 use only to those persons authorized under this article to the  
23 terms and in a way prescribed in this article:

24 (a) "Chiropractic", "doctor of chiropractic",  
25 "chiropractor", "d.c.", and "chiropractic physician".

26 (b) "Dentist", "doctor of dental surgery", "oral and  
27 maxillofacial surgeon", "orthodontist" ~~"prosthodontist"~~

1 "PROSTHODONTIST", "periodontist", "endodontist", "pediatric  
2 dentist", "dental hygienist", "registered dental hygienist",  
3 "dental assistant", "registered dental assistant", "R.D.A.",  
4 "d.d.s.", "d.m.d.", and "r.d.h.".

5 (c) "Doctor of medicine" and "m.d.".

6 (d) "Physician's assistant" and "p.a.".

7 (e) "Registered professional nurse", "registered nurse",  
8 "r.n.", "licensed practical nurse", "l.p.n.", "nurse midwife",  
9 "nurse anesthetist", "nurse practitioner", "trained attendant",  
10 and "t.a.".

11 (f) "Doctor of optometry", "optometrist", and "o.d.".

12 (g) "Osteopath", "osteopathy", "osteopathic practitioner",  
13 "doctor of osteopathy", "diplomate in osteopathy", and "d.o.".

14 (h) "Pharmacy", "pharmacist", "apothecary", "drugstore",  
15 "druggist", "medicine store", "prescriptions", and "r.ph.".

16 (i) "Physical therapy", "physical therapist",  
17 "physiotherapist", "registered physical therapist", "licensed  
18 physical therapist", "physical therapy technician", "p.t.",  
19 "r.p.t.", "l.p.t.", and "p.t.t.".

20 (j) "Chiropodist", "chiropody", "chiropodical", "podiatry",  
21 "podiatrist", "podiatric", "doctor of podiatric medicine", "foot  
22 specialist", "podiatric physician and surgeon", and "d.p.m.".

23 (k) "Consulting psychologist", "psychologist",  
24 "psychological assistant", and "psychological examiner",  
25 "licensed psychologist", and "limited licensed psychologist".

26 (l) "Licensed professional counselor", "licensed counselor",  
27 "professional counselor", and "L.P.C.".

1 (m) "Sanitarian", "registered sanitarian", and "r.s.".

2 (n) "Veterinary", "veterinarian", "veterinary doctor",  
3 "veterinary surgeon", "doctor of veterinary medicine", "v.m.d.",  
4 "d.v.m.", and after July 1, 1979, "animal technician", or "animal  
5 technologist".

6 (o) "Occupational therapist", "occupational therapist  
7 registered", "certified occupational therapist", "o.t.",  
8 "o.t.r.", "c.o.t.", "certified occupational therapy assistant",  
9 "occupational therapy assistant", or "c.o.t.a.".

10 (P) "RESPIRATORY CARE PRACTITIONER", "R.C.P.", "RESPIRATORY  
11 THERAPY", "LICENSED RESPIRATORY CARE PRACTITIONER", "L.R.C.P.",  
12 "INHALATION THERAPY", "RESPIRATORY THERAPIST", "INHALATION  
13 THERAPIST", "REGISTERED INHALATION THERAPIST", "RESPIRATORY THER-  
14 APY TECHNICIAN", "REGISTERED RESPIRATORY THERAPY TECHNICIAN",  
15 "INHALATION THERAPY TECHNICIAN", "REGISTERED INHALATION THERAPY  
16 TECHNICIAN", "R.T.", "I.T.", "R.I.T.", "R.T.T.", "R.R.T.T.",  
17 "I.T.T.", AND "R.I.T.T.".

18 (2) Notwithstanding section 16261, a person who was spe-  
19 cially trained at an institution of higher education in this  
20 state to assist a physician in the field of orthopedics and upon  
21 completion of training, received a 2-year associate of science  
22 degree as an orthopedic physician's assistant before January 1,  
23 1977, may use the title "orthopedic physician's assistant"  
24 whether or not the person is licensed under this article.

25 PART 179. RESPIRATORY CARE PRACTITIONERS

26 SEC. 17901. (1) AS USED IN THIS PART:

1 (A) "BOARD" MEANS THE MICHIGAN BOARD OF RESPIRATORY  
2 PRACTITIONERS CREATED IN SECTION 17905.

3 (B) "PHYSICIAN" MEANS THAT TERM AS DEFINED IN SECTION 17001  
4 AND 17501.

5 (C) "PRACTICE AS A RESPIRATORY CARE PRACTITIONER" MEANS A  
6 PRACTICE AS A HEALTH CARE PROFESSIONAL EMPLOYED UNDER THE SUPER-  
7 VISION OF A QUALIFIED PHYSICIAN IN THE TREATMENT, THERAPY, MAN-  
8 AGEMENT, REHABILITATION, DIAGNOSTIC EVALUATION, AND CARE OF  
9 PATIENTS WITH DEFICIENCIES AND ABNORMALITIES WHICH AFFECT THE  
10 RESPIRATORY SYSTEM AND ASSOCIATED ASPECTS OF CARDIOPULMONARY AND  
11 OTHER SYSTEMS FUNCTIONS. PRACTICE AS A RESPIRATORY CARE PRACTI-  
12 TIONER INCLUDES, BUT IS NOT LIMITED TO, THE TRANSCRIPTION AND  
13 IMPLEMENTATION OF THE WRITTEN AND VERBAL ORDERS OF A PHYSICIAN  
14 PERTAINING TO THE PRACTICE OF RESPIRATORY CARE AND THE ADMINIS-  
15 TRATION OF MEDICATIONS.

16 (D) "QUALIFIED PHYSICIAN" MEANS A PHYSICIAN WHO HAS EDUCA-  
17 TION, TRAINING, OR SPECIAL INTEREST AND BACKGROUND IN THE TREAT-  
18 MENT OF PATIENTS WITH CARDIO-RESPIRATORY DISORDERS.

19 (E) "RESPIRATORY CARE PRACTITIONER" MEANS A PERSON LICENSED  
20 UNDER THIS ARTICLE TO PRACTICE AS A RESPIRATORY CARE  
21 PRACTITIONER.

22 (2) IN ADDITION, ARTICLE 1 CONTAINS GENERAL DEFINITIONS AND  
23 PRINCIPLES OF CONSTRUCTION APPLICABLE TO ALL ARTICLES IN THIS  
24 CODE.

25 SEC. 17903. A PERSON SHALL NOT PRACTICE AS A RESPIRATORY  
26 CARE PRACTITIONER UNLESS LICENSED OR OTHERWISE AUTHORIZED BY THIS  
27 ARTICLE.

1        SEC. 17905. THE MICHIGAN BOARD OF RESPIRATORY PRACTITIONERS  
2 IS CREATED IN THE DEPARTMENT AND SHALL CONSIST OF THE FOLLOWING 7  
3 MEMBERS WHO SHALL MEET THE REQUIREMENTS OF PART 161: 4 RESPIRA-  
4 TORY CARE PRACTITIONERS, 1 QUALIFIED PHYSICIAN MEDICAL DIRECTOR  
5 OF RESPIRATORY THERAPY SERVICES, AND 2 PUBLIC MEMBERS.

6        SEC. 17907. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUB-  
7 SECTION, TO DETERMINE WHETHER AN APPLICANT FOR INITIAL LICENSURE  
8 HAS THE APPROPRIATE LEVEL OF SKILL AND KNOWLEDGE AS REQUIRED BY  
9 THIS PART, THE BOARD SHALL REQUIRE THE APPLICANT TO TAKE AN EXAM-  
10 INATION WHICH SHALL INCLUDE THOSE SUBJECTS THE GENERAL KNOWLEDGE  
11 OF WHICH IS COMMONLY AND GENERALLY REQUIRED OF A GRADUATE OF AN  
12 ACCREDITED RESPIRATORY CARE PRACTITIONER'S PROGRAM IN THE UNITED  
13 STATES. THE BOARD MAY WAIVE THE EXAMINATION REQUIREMENT IF 1 OF  
14 THE FOLLOWING APPLIES:

15        (A) THE APPLICANT HAS TAKEN AND PASSED AN EXAMINATION GIVEN  
16 BY THE NATIONAL BOARD OF RESPIRATORY CARE AND ACCEPTED BY THE  
17 BOARD.

18        (B) THE APPLICANT IS SPONSORED BY A QUALIFIED PHYSICIAN  
19 LICENSED UNDER THIS ARTICLE AND APPLIES FOR LICENSURE WITHIN 90  
20 DAYS AFTER THE EFFECTIVE DATE OF THIS PART.

21        (C) THE APPLICANT APPLIES FOR RECIPROCAL LICENSURE UNDER  
22 SECTION 16186.

23        (2) FOR THE PURPOSE OF SUBSECTION (1), THE BOARD SHALL NOT,  
24 IN ANY CASE, PRECLUDE AN APPLICANT FROM TAKING AN EXAMINATION  
25 BECAUSE OF A LACK OF SPECIFIC PREVIOUS EDUCATION, TRAINING, OR  
26 EXPERIENCE.

1        SEC. 17909. A RESPIRATORY CARE PRACTITIONER SHALL NOT  
2 UNDERTAKE OR REPRESENT THAT HE OR SHE IS QUALIFIED TO UNDERTAKE  
3 PROVISION OF A SERVICE THAT HE OR SHE KNOWS OR REASONABLY SHOULD  
4 KNOW TO BE OUTSIDE HIS OR HER COMPETENCE OR PROHIBITED BY LAW.

5        SEC. 17911. (1) EXCEPT IN AN EMERGENCY SITUATION, A RESPI-  
6 RATORY CARE PRACTITIONER SHALL PROVIDE SERVICES ONLY UNDER THE  
7 SUPERVISION OF A QUALIFIED PHYSICIAN.

8        (2) A RESPIRATORY CARE PRACTITIONER SHALL PROVIDE SERVICES  
9 ONLY IN A SETTING WHERE A QUALIFIED PHYSICIAN MEDICAL DIRECTOR OF  
10 RESPIRATORY CARE SERVICES ESTABLISHES AND REGULARLY REVIEWS THE  
11 STANDARDS OF RESPIRATORY CARE. UNDER THE SUPERVISION OF A QUALI-  
12 FIED PHYSICIAN, A RESPIRATORY CARE PRACTITIONER MAY MAKE CALLS OR  
13 GO ON ROUNDS IN PRIVATE HOMES, PUBLIC INSTITUTIONS, EMERGENCY  
14 VEHICLES, AMBULATORY CARE CLINICS, HOSPITALS, INTERMEDIATE OR  
15 EXTENDED CARE FACILITIES, HEALTH MAINTENANCE ORGANIZATIONS, NURS-  
16 ING HOMES, OR OTHER HEALTH CARE FACILITIES TO THE EXTENT PERMIT-  
17 TED BY THE BYLAWS, RULES, OR REGULATIONS OF THE FACILITIES OR  
18 ORGANIZATIONS.

19        SEC. 17913. A COMMUNICATION MADE TO A RESPIRATORY CARE  
20 PRACTITIONER WHICH WOULD BE A PRIVILEGED COMMUNICATION IF MADE TO  
21 THE SUPERVISING QUALIFIED PHYSICIAN SHALL BE A PRIVILEGED COMMU-  
22 NICATION TO THE RESPIRATORY CARE PRACTITIONER AND THE SUPERVISING  
23 QUALIFIED PHYSICIAN TO THE SAME EXTENT AS IF THE COMMUNICATION  
24 HAD BEEN MADE TO THE SUPERVISING QUALIFIED PHYSICIAN.

25        SEC. 17915. WHEN PERFORMING SERVICES CONSISTENT WITH THE  
26 INDIVIDUAL'S TRAINING, ACTS OR OMISSIONS OF A RESPIRATORY CARE  
27 PRACTITIONER DO NOT IMPOSE LIABILITY ON THE RESPIRATORY CARE

1 PRACTITIONER OR SUPERVISING QUALIFIED PHYSICIAN IN THE TREATMENT  
2 OF A PATIENT IF THE SERVICE IS PERFORMED OUTSIDE OF A HOSPITAL OR  
3 OUTSIDE BOTH THE PLACE AND THE COURSE OF EMPLOYMENT OF THE RESPI-  
4 RATORY CARE PRACTITIONER, AND THE SERVICE CONSTITUTES EMERGENCY  
5 CARE AT THE SCENE OF AN EMERGENCY. THIS SECTION DOES NOT APPLY  
6 IF THE ACT OR OMISSION WAS THE RESULT OF GROSS NEGLIGENCE OR  
7 WILLFUL MISCONDUCT.

8 SEC. 17917. THIS PART DOES NOT REQUIRE NEW OR ADDITIONAL  
9 THIRD PARTY REIMBURSEMENT FOR SERVICES RENDERED BY RESPIRATORY  
10 CARE PRACTITIONERS.

11 Section 2. This amendatory act shall not take effect unless  
12 Senate Bill No. \_\_\_\_\_ or House Bill No. 4327 (request  
13 no. 01335'89 a) of the 85th Legislature is enacted into law.