

HOUSE BILL No. 4712

April 26, 1989, Introduced by Reps. Gubow, Crandall, Pitoniak, Munsell, DeMars, Stallworth, Kosteva, DeBeaussiaert and Gire and referred to the Committee on Public Health.

A bill to amend sections 16106 and 16109 of Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code,"

being sections 333.16106 and 333.16109 of the Michigan Compiled Laws; and to add sections 16281, 16282, 16283, 16284, 16285, 16286, and 16287.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 16106 and 16109 of Act No. 368 of the
2 Public Acts being sections 333.16106 and 333.16109 of the
3 Michigan Compiled Laws, are amended and sections 16281, 16282,
4 16283, 16284, 16285, 16286, and 16287 are added to read as
5 follows:

6 Sec. 16106. (1) "IMPAIRED" OR "IMPAIRMENT" MEANS THE
7 PRESENCE IN A LICENSEE OF SUBSTANCE ABUSE OR MENTAL ILLNESS. AS
8 USED IN THIS SUBSECTION:

1 (A) "MENTAL ILLNESS" MEANS THAT TERM AS DEFINED IN SECTION
2 400A OF THE MENTAL HEALTH CODE, ACT NO. 258 OF THE PUBLIC ACTS OF
3 1974, BEING SECTION 330.1400A OF THE MICHIGAN COMPILED LAWS.

4 (B) "SUBSTANCE ABUSE" MEANS THAT TERM AS DEFINED IN SECTION
5 6107.

6 (2) "IMPAIRED HEALTH PROFESSIONAL COMMITTEE" MEANS A COMMIT-
7 TEE APPOINTED BY A PROFESSIONAL ASSOCIATION WITH WHICH THE
8 DEPARTMENT HAS ENTERED INTO AN AGREEMENT UNDER SECTION 16281, AND
9 CONSISTING OF LICENSEES WHO HAVE EXPERTISE IN THE AREAS OF SUB-
10 STANCE ABUSE AND MENTAL ILLNESS.

11 (3) ~~-(1)-~~ "Incompetence" means a departure from, or failure
12 to conform to, minimal standards of acceptable and prevailing
13 practice for the health profession, whether or not actual injury
14 to an individual occurs.

15 (4) ~~-(2)-~~ "License" means an authorization issued under this
16 article to practice where practice would otherwise be unlawful.
17 It includes an authorization to use a designated title which use
18 would otherwise be prohibited under this article and may be used
19 to refer to a health profession subfield license, limited
20 license, or a temporary license.

21 (5) ~~-(3)-~~ "Licensee" as used in a part that regulates a spe-
22 cific health profession means a person to whom a license is
23 issued under that part, and as used in this part means each
24 licensee regulated by this article.

25 (6) ~~-(4)-~~ "Limitation" means an action by which a board
26 imposes restrictions or conditions, or both, on a license.

1 (7) ~~(5)~~ "Limited license" means a license to which
2 restrictions or conditions, or both, as to scope of practice,
3 place of practice, supervision of practice, duration of licensed
4 status, or type or condition of patient or client served are
5 imposed by a board.

6 Sec. 16109. (1) "Specialty certification" means an authori-
7 zation to use a title by a licensee who has met qualifications
8 established by a board for registration in a health profession
9 specialty field.

10 (2) "Supervision" means the overseeing of or participation
11 in the work of another individual by a health professional
12 licensed under this article in circumstances where at least all
13 of the following conditions exist:

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

17 (b) The availability of a licensed health professional on a
18 regularly scheduled basis to review the practice of the super-
19 vised individual, to provide consultation to the supervised indi-
20 vidual, to review records, and to further educate the supervised
21 individual in the performance of the individual's functions.

22 (c) The provision by the licensed supervising health profes-
23 sional of predetermined procedures and drug protocol.

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

26 (4) "Temporary license" means a license of limited duration
27 granted to an applicant who has completed all requirements for

1 licensure except an examination or other required evaluation
2 procedure.

3 (5) "TREATMENT" OR "TREATMENT PROGRAM" MEANS A PLAN OF CARE
4 AND REHABILITATION SERVICES PROVIDED TO IMPAIRED LICENSEES.

5 SEC. 16281. (1) A BOARD MAY ENTER INTO AN AGREEMENT WITH AN
6 ASSOCIATION OF HEALTH PROFESSIONALS, AS DESCRIBED IN
7 SUBSECTION (2).

8 (2) THE AGREEMENT AUTHORIZED UNDER SUBSECTION (1) MAY PRO-
9 VIDE FOR 1 OR MORE OF THE FOLLOWING:

10 (A) AN IMPAIRED HEALTH PROFESSIONAL COMMITTEE TO CONTRACT
11 WITH PROVIDERS OF TREATMENT PROGRAMS AND TO REFER IMPAIRED
12 LICENSEES TO THOSE TREATMENT PROGRAMS.

13 (B) AN IMPAIRED HEALTH PROFESSIONAL COMMITTEE TO RECEIVE
14 FROM ANY SOURCE AND EVALUATE REPORTS OF SUSPECTED IMPAIRMENT.

15 (C) AN IMPAIRED HEALTH PROFESSIONAL COMMITTEE TO INTERVENE
16 IN CASES OF VERIFIED IMPAIRMENT.

17 (D) AN IMPAIRED HEALTH PROFESSIONAL COMMITTEE TO MONITOR THE
18 TREATMENT AND REHABILITATION OF IMPAIRED LICENSEES.

19 (E) AN IMPAIRED HEALTH PROFESSIONAL COMMITTEE TO PROVIDE
20 POSTTREATMENT MONITORING AND SUPPORT OF IMPAIRED LICENSEES WHO
21 HAVE UNDERGONE TREATMENT.

22 (F) AN IMPAIRED HEALTH PROFESSIONAL COMMITTEE TO PERFORM
23 ACTIVITIES OTHER THAN THE ACTIVITIES DESCRIBED IN SUBDIVISIONS
24 (A) TO (D), AS AGREED UPON BY THE BOARD AND THE IMPAIRED HEALTH
25 PROFESSIONAL COMMITTEE.

26 (3) AN AGREEMENT ENTERED INTO UNDER THIS SECTION SHALL
27 REQUIRE THE BOARD TO PAY THE EXPENSES OF THE IMPAIRED HEALTH

1 PROFESSIONAL COMMITTEE INCURRED IN CARRYING OUT THE DUTIES OF THE
2 COMMITTEE UNDER THE AGREEMENT.

3 SEC. 16282. A BOARD THAT ENTERS INTO AN AGREEMENT WITH AN
4 IMPAIRED HEALTH PROFESSIONAL COMMITTEE, IN CONSULTATION WITH THE
5 IMPAIRED HEALTH PROFESSIONAL COMMITTEE, MAY PROMULGATE RULES FOR
6 ALL OF THE FOLLOWING:

7 (A) PERIODIC REPORTING OF STATISTICAL INFORMATION OBTAINED
8 PURSUANT TO AN AGREEMENT ENTERED INTO UNDER SECTION 16281.

9 (B) PERIODIC DISCLOSURE TO THE BOARD BY THE IMPAIRED HEALTH
10 PROFESSIONAL COMMITTEE AND JOINT REVIEW BY THE BOARD AND THE
11 IMPAIRED HEALTH PROFESSIONAL COMMITTEE OF INFORMATION REGARDING
12 REPORTS RECEIVED AND INVESTIGATIONS CONDUCTED BY THE IMPAIRED
13 HEALTH PROFESSIONAL COMMITTEE.

14 (C) IMMEDIATE REPORTING BY THE IMPAIRED HEALTH PROFESSIONAL
15 COMMITTEE TO THE BOARD OF A LICENSEE BELIEVED BY THE IMPAIRED
16 HEALTH PROFESSIONAL COMMITTEE, AS A RESULT OF A REPORT RECEIVED
17 OR AN INVESTIGATION CONDUCTED BY THE IMPAIRED HEALTH PROFESSIONAL
18 COMMITTEE, TO BE AN IMMINENT DANGER TO THE PUBLIC OR HIMSELF OR
19 HERSELF.

20 (D) TIMELY REPORTING TO THE BOARD OF A LICENSEE WHO THE
21 IMPAIRED HEALTH PROFESSIONAL COMMITTEE BELIEVES IS INCOMPETENT
22 FOR EITHER OF THE FOLLOWING REASONS:

23 (i) THE LICENSEE IS IMPAIRED AND REFUSES TO UNDERGO
24 TREATMENT.

25 (ii) THE LICENSEE'S IMPAIRMENT IS NOT SUBSTANTIALLY ALLEVI-
26 ATED BY TREATMENT.

1 (E) INFORMING EACH LICENSEE WHO PARTICIPATES IN A TREATMENT
2 PROGRAM OF ALL OF THE FOLLOWING:

3 (i) THE TREATMENT PROGRAM PROCEDURES.

4 (ii) THE RESPONSIBILITIES OF LICENSEES WHO PARTICIPATE IN
5 THE TREATMENT PROGRAM.

6 (iii) THE POSSIBLE CONSEQUENCES TO IMPAIRED LICENSEES WHO
7 REFUSE TO PARTICIPATE IN THE TREATMENT PROGRAM.

8 SEC. 16283. IF A BOARD HAS REASONABLE CAUSE TO BELIEVE THAT
9 A LICENSEE IS IMPAIRED, THE BOARD SHALL CAUSE AN EVALUATION OF
10 THE LICENSEE TO BE CONDUCTED BY THE IMPAIRED HEALTH PROFESSIONAL
11 COMMITTEE FOR THE PURPOSE OF DETERMINING IMPAIRMENT. THE
12 IMPAIRED HEALTH PROFESSIONAL COMMITTEE SHALL REPORT THE RESULTS
13 OF THE EVALUATION TO THE BOARD.

14 SEC. 16284. (1) AN IMPAIRED LICENSEE MAY REQUEST THE BOARD
15 TO LIMIT THE LICENSEE'S LICENSE UNDER SECTION 16182.

16 (2) A LICENSEE WHOSE LICENSE IS LIMITED UNDER SUBSECTION (1)
17 SHALL BE SUBJECT TO SECTION 16249.

18 SEC. 16285. (1) ALL BOARD AND IMPAIRED HEALTH PROFESSIONAL
19 COMMITTEE RECORDS PERTAINING TO AN EVALUATION CONDUCTED BY AN
20 IMPAIRED HEALTH PROFESSIONAL COMMITTEE UNDER SECTION 16283 AND
21 THE PARTICIPATION BY A LICENSEE IN A TREATMENT PROGRAM ARE CONFIDENTIAL AND ARE NOT SUBJECT TO DISCOVERY OR SUBPOENA.

22 (2) THE MEMBERS OF AN IMPAIRED HEALTH PROFESSIONAL COMMITTEE
23 AND PERSONS WHO ATTEND MEETINGS OF THE IMPAIRED HEALTH PROFESSIONAL COMMITTEE SHALL NOT BE REQUIRED BY SUBPOENA TO TESTIFY
24 REGARDING DELIBERATIONS OR PROCEEDINGS OF THE IMPAIRED HEALTH
25 PROFESSIONAL COMMITTEE.

1 SEC. 16286. A HOSPITAL SHALL NOT TERMINATE THE EMPLOYMENT
2 OF, DISCIPLINE, OR DISCRIMINATE AGAINST A LICENSEE WHO IS PARTIC-
3 IPATING IN OR WHO HAS SUCCESSFULLY COMPLETED A TREATMENT PROGRAM
4 SOLELY BECAUSE OF THAT PARTICIPATION.

5 SEC. 16287. THE MEMBERS OF AN IMPAIRED HEALTH PROFESSIONAL
6 COMMITTEE AND THE ASSOCIATION OF HEALTH PROFESSIONALS THAT
7 APPOINTED THE IMPAIRED HEALTH PROFESSIONAL COMMITTEE SHALL BE
8 IMMUNE FROM CIVIL AND CRIMINAL LIABILITY UNDER SECTION 16244.