

HOUSE BILL No. 5618

January 31, 2006, Introduced by Reps. Vander Veen, Stakoe, Garfield, Kooiman, Amos, Hoogendyk, Stahl, Hildenbrand, Emmons, Pearce and Mortimer and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16263, 16315, 16335, 17801, 17820, and 17822
(MCL 333.16263, 333.16315, 333.16335, 333.17801, 333.17820, and
333.17822), section 16263 as amended by 2004 PA 97, section 16315
as amended by 2001 PA 232, section 16335 as added by 1993 PA 80,
section 17801 as amended by 1987 PA 213, and section 17820 and
17822 as amended by 2005 PA 281, and by adding sections 17823,
17824, and 17825.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16263. (1) Except as provided in subsection (2), the
2 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 article to use the terms and in a way prescribed in this article:

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

(b) "Dentist", "doctor of dental surgery", "oral and maxillofacial surgeon", "orthodontist", "prosthodontist", "periodontist", "endodontist", "oral pathologist", "pediatric dentist", "dental hygienist", "registered dental hygienist", "dental assistant", "registered dental assistant", "r.d.a.", "d.d.s.", "d.m.d.", and "r.d.h.".

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

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

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

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

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

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

(i) "Physical therapy", "physical therapist", **"DOCTOR OF PHYSIOTHERAPY"**, **"DOCTOR OF PHYSICAL THERAPY"**, "physiotherapist", **"PHYSIOTHERAPY"**, "registered physical therapist", "licensed physical therapist", "physical therapy technician", **"PHYSICAL THERAPIST ASSISTANT"**, **"PHYSICAL THERAPY ASSISTANT"**,

1 "PHYSIOTHERAPIST ASSISTANT", "PHYSIOTHERAPY ASSISTANT", "P.T.
 2 ASSISTANT", "p.t.", "r.p.t.", "l.p.t.", "C.P.T.", "D.P.T.",
 3 "M.P.T.", "P.T.A.", "REGISTERED P.T.A.", "LICENSED P.T.A.",
 4 "CERTIFIED P.T.A.", "C.P.T.A.", "L.P.T.A.", "R.P.T.A.", and
 5 "p.t.t.".

6 (j) "Chiropodist", "chiropody", "chiropodical", "podiatry",
 7 "podiatrist", "podiatric", "doctor of podiatric medicine", "foot
 8 specialist", "podiatric physician and surgeon", and "d.p.m.".

9 (k) "Consulting psychologist", "psychologist", "psychological
 10 assistant", "psychological examiner", "licensed psychologist", and
 11 "limited licensed psychologist".

12 (l) "Licensed professional counselor", "licensed counselor",
 13 "professional counselor", and "l.p.c.".

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

15 (n) Until July 1, 2005, "social worker", "certified social
 16 worker", "social work technician", "s.w.", "c.s.w.", and "s.w.t.".
 17 Beginning July 1, 2005, "social worker", "licensed master's social
 18 worker", "licensed bachelor's social worker", "registered social
 19 service technician", "social service technician", "l.m.s.w.",
 20 "l.b.s.w.", and "r.s.s.t.".

21 (o) "Veterinary", "veterinarian", "veterinary doctor",
 22 "veterinary surgeon", "doctor of veterinary medicine", "v.m.d.",
 23 "d.v.m.", "animal technician", or "animal technologist".

24 (p) "Occupational therapist", "occupational therapist
 25 registered", "certified occupational therapist", "o.t.", "o.t.r.",
 26 "c.o.t.", "certified occupational therapy assistant", "occupational
 27 therapy assistant", or "c.o.t.a.".

(q) "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"; "marital counselor" or "marital therapist"; "limited licensed marriage and family therapist" or "limited licensed marriage counselor"; "licensed marriage and family therapist" or "licensed marriage counselor"; and "l.m.f.t.".

(r) "Nursing home administrator".

(s) "Respiratory therapist", "respiratory care practitioner", "licensed respiratory therapist", "licensed respiratory care practitioner", "r.t.", "r.c.p.", "l.r.t.", and "l.r.c.p.".

(t) "Audiometrist", "audiologist", "hearing therapist", "hearing aid audiologist", "educational audiologist", "industrial audiologist", and "clinical audiologist".

(2) 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 person is licensed under this article.

Sec. 16315. (1) The health professions regulatory fund is established in the state treasury. Except as otherwise provided in

1 this section, the state treasurer shall credit the fees collected
2 under sections 16319 to 16349 to the health professions regulatory
3 fund. The money in the health professions regulatory fund shall be
4 expended only as provided in subsection (5).

5 (2) The state treasurer shall direct the investment of the
6 health professions regulatory fund. Interest and earnings from
7 health professions regulatory fund investment shall be credited to
8 the health professions regulatory fund.

9 (3) The unencumbered balance in the health professions
10 regulatory fund at the close of the fiscal year shall remain in the
11 health professions regulatory fund and shall not revert to the
12 general fund.

13 (4) The health professions regulatory fund may receive gifts
14 and devises and other money as provided by law.

15 (5) The department ~~of consumer and industry services~~ shall
16 use the health professions regulatory fund only to carry out its
17 powers and duties under this article and article 7 including, but
18 not limited to, reimbursing the department of attorney general for
19 the reasonable cost of services provided to the department ~~of~~
20 ~~consumer and industry services~~ under this article and article 7.

21 (6) The nurse professional fund is established in the state
22 treasury. Of the money that is attributable to per-year license
23 fees collected under section 16327, the state treasurer shall
24 credit \$2.00 of each individual annual license fee collected to the
25 nurse professional fund. The money in the nurse professional fund
26 shall be expended only as provided in subsection (9).

27 (7) The state treasurer shall direct the investment of the

1 nurse professional fund, and shall credit interest and earnings
2 from the investment to the nurse professional fund. The nurse
3 professional fund may receive gifts and devises and other money as
4 provided by law.

5 (8) The unencumbered balance in the nurse professional fund at
6 the close of the fiscal year shall remain in the nurse professional
7 fund and shall not revert to the general fund.

8 (9) The department ~~of consumer and industry services~~ shall
9 use the nurse professional fund each fiscal year only as follows:

10 (a) The department may use not more than 1/3 of the nurse
11 professional fund for the establishment and operation of a nurse
12 continuing education program.

13 (b) The department may use not more than 1/3 of the nurse
14 professional fund to perform research and development studies to
15 promote and advance the nursing profession.

16 (c) The department shall use not less than 1/3 of the nurse
17 professional fund to establish and operate a nursing scholarship
18 program.

19 (10) The official prescription form program fund established
20 by the amendatory act that added this section is abolished. The
21 money remaining in the official prescription form program fund on
22 ~~the effective date of the amendatory act that added subsection (11)~~
23 **JANUARY 3, 2002** shall be transferred by the state treasurer to the
24 pain management education and controlled substances electronic
25 monitoring and antidiversion fund created in subsection (11).

26 (11) The pain management education and controlled substances
27 electronic monitoring and antidiversion fund is established in the

1 state treasury.

2 (12) The state treasurer shall direct the investment of the
3 pain management education and controlled substances electronic
4 monitoring and antidiversion fund. Interest and earnings from
5 investment of the pain management education and controlled
6 substances electronic monitoring and antidiversion fund shall be
7 credited to the pain management education and controlled substances
8 electronic monitoring and antidiversion fund.

9 (13) The unencumbered balance in the pain management education
10 and controlled substances electronic monitoring and antidiversion
11 fund at the close of the fiscal year shall remain in the pain
12 management education and controlled substances electronic
13 monitoring and antidiversion fund and shall not revert to the
14 general fund. The pain management education and controlled
15 substances electronic monitoring and antidiversion fund may receive
16 gifts and devises and other money as provided by law. Twenty
17 dollars of the license fee received by the department ~~of consumer~~
18 ~~and industry services~~ under section 16319 shall be deposited with
19 the state treasurer to the credit of the pain management education
20 and controlled substances electronic monitoring and antidiversion
21 fund. The department shall use the pain management education and
22 controlled substances electronic monitoring and antidiversion fund
23 only in connection with programs relating to pain management
24 education for health professionals, preventing the diversion of
25 controlled substances, and development and maintenance of the
26 electronic monitoring system for controlled substances data
27 required by section 7333a.

(14) THE PHYSICAL THERAPY PROFESSIONAL FUND IS ESTABLISHED IN THE STATE TREASURY. OF THE MONEY THAT IS ATTRIBUTED TO PER-YEAR LICENSE FEES COLLECTED UNDER SECTION 16335, THE STATE TREASURER SHALL CREDIT 10% OF EACH INDIVIDUAL ANNUAL LICENSE FEE COLLECTED TO THE PHYSICAL THERAPY PROFESSIONAL FUND. THE MONEY IN THE PHYSICAL THERAPY PROFESSIONAL FUND SHALL BE EXPENDED ONLY FOR THE ESTABLISHMENT AND OPERATION OF A PHYSICAL THERAPY CONTINUING EDUCATION PROGRAM ESTABLISHED UNDER SECTION 17823.

(15) THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE PHYSICAL THERAPY PROFESSIONAL FUND AND SHALL CREDIT INTEREST AND EARNINGS FROM THE INVESTMENT TO THE PHYSICAL THERAPY PROFESSIONAL FUND. THE PHYSICAL THERAPY PROFESSIONAL FUND MAY RECEIVE GIFTS AND DEVICES AND OTHER MONEY AS PROVIDED BY LAW.

(16) THE UNENCUMBERED BALANCE IN THE PHYSICAL THERAPY PROFESSIONAL FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE PHYSICAL THERAPY PROFESSIONAL FUND AND SHALL NOT REVERT TO THE GENERAL FUND.

Sec. 16335. Fees for a person licensed or seeking licensure to engage in the practice of physical therapy under part 178 are as follows:

(a) Application processing fee \$ 20.00

(b) Examination fees:

Jurisprudence examination only 25.00

(c) License fee, per year ~~50.00~~ 60.00

~~(d) Temporary license 20.00~~

(D) ~~(e)~~ Limited license, per year 25.00

Sec. 17801. (1) As used in this part:

1 (a) "Physical therapist" means an individual licensed under
2 this article to engage in the practice of physical therapy.

3 (B) "PHYSICAL THERAPIST ASSISTANT" MEANS AN INDIVIDUAL WHO
4 ASSISTS A PHYSICAL THERAPIST IN PHYSICAL THERAPY INTERVENTION AND
5 IS A GRADUATE OF A NATIONALLY ACCREDITED PHYSICAL THERAPIST
6 ASSISTANT EDUCATION PROGRAM.

7 (C) ~~—(b)—~~ "Practice of physical therapy", SUBJECT TO
8 SUBSECTION (2), means the evaluation of, education of, consultation
9 with, or treatment of an individual by A PHYSICAL THERAPIST OR
10 UNDER THE DIRECTION AND RESPONSIBILITY OF A PHYSICAL THERAPIST IN
11 COMPLIANCE WITH THE RULES PROMULGATED UNDER SECTION 17824(1).

12 PRACTICE OF PHYSICAL THERAPY INCLUDES, BUT IS NOT LIMITED TO, the
13 employment of effective properties of physical measures and the use
14 of therapeutic exercises and rehabilitative procedures, with or
15 without ~~—assistant—~~ ASSISTIVE devices, for the purpose of
16 preventing, correcting, or alleviating a physical or mental
17 disability; ~~—It includes—~~ treatment planning, performance of tests
18 and measurements AND INTERPRETATION AND LABELING OF THE RESULTS OF
19 THOSE PHYSICAL THERAPY TESTS AND MEASUREMENTS, interpretation of
20 referrals, INTERVENTION SELECTION, initiation of referrals,
21 instruction, consultative services, and supervision of personnel.
22 Physical measures include massage, mobilization, heat, cold, air,
23 light, water, electricity, and sound.

24 (2) Practice of physical therapy does not include the
25 ~~identification of underlying medical problems or etiologies,~~
26 establishment of medical diagnoses ~~—~~ or the prescribing of
27 MEDICAL treatment.

1 (3) ~~—(2)—~~ In addition to the definitions in this part,
2 article 1 contains general definitions and principles of
3 construction applicable to all articles in this code and part 161
4 contains definitions applicable to this part.

5 Sec. 17820. (1) A person shall not engage in the practice of
6 physical therapy unless licensed or otherwise authorized by this
7 article. ~~—A—~~ **EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (2), A**
8 person shall engage in the actual treatment of an individual only
9 upon the prescription of an individual holding a license issued
10 under part 166, 170, 175, or 180, or the equivalent license issued
11 by another state.

12 **(2) SUBJECT TO SUBSECTION (3), A PERSON MAY ENGAGE IN THE**
13 **ACTUAL TREATMENT OF AN INDIVIDUAL WITHOUT A PRESCRIPTION OR**
14 **REFERRAL AS DESCRIBED IN SUBSECTION (1) IF THE INDIVIDUAL HAD A**
15 **PREVIOUS REFERRAL FOR PHYSICAL THERAPY AND THAT PRIOR REFERRAL WAS**
16 **FOR TREATMENT OF THE SAME INJURY OR CONDITION AND WAS NOT MORE THAN**
17 **1 YEAR PRIOR TO THE DATE OF HIS OR HER RETURN FOR TREATMENT OF THE**
18 **SAME AND IF THE PERSON SATISFIES ANY OF THE FOLLOWING:**

19 **(A) HAS COMPLETED A NATIONALLY ACCREDITED DOCTORAL LEVEL**
20 **PHYSICAL THERAPIST EDUCATIONAL PROGRAM THAT IS ACCEPTABLE TO THE**
21 **BOARD.**

22 **(B) HAS COMPLETED AT LEAST 2 YEARS OF EXPERIENCE ENGAGED IN**
23 **THE PRACTICE OF PHYSICAL THERAPY AS A LICENSED PHYSICAL THERAPIST**
24 **AND HAS REFERENCES FROM AT LEAST 2 PHYSICIANS WITH WHOM THE**
25 **PHYSICAL THERAPIST HAS HAD A WORKING RELATIONSHIP.**

26 **(C) IS EMPLOYED BY A PHYSICIAN OR HEALTH FACILITY, UNDER**
27 **CONTRACT OR SUBCONTRACT WITH A PHYSICIAN OR HEALTH FACILITY, OR HAS**

1 PRIVILEGES AT A PHYSICIAN'S OFFICE OR HEALTH FACILITY.

2 (3) A PHYSICAL THERAPIST WHO IS AUTHORIZED TO EVALUATE AND
3 TREAT AN INDIVIDUAL WITHOUT A PRESCRIPTION OR REFERRAL UNDER
4 SUBSECTION (2) SHALL COMPLY WITH ALL OF THE FOLLOWING:

5 (A) INFORM THE PATIENT'S PRIMARY CARE PHYSICIAN OR OTHER
6 HEALTH CARE PROFESSIONAL DESIGNATED BY THE PATIENT OF THE
7 EVALUATION WITHIN 5 DAYS AFTER THE EVALUATION IS MADE.

8 (B) COMPLETE THE ADDITIONAL CONTINUING EDUCATION REQUIREMENTS
9 ESTABLISHED UNDER SECTION 17823(3).

10 (C) HOLD A VALID CERTIFICATION IN CARDIOPULMONARY
11 RESUSCITATION APPROVED BY THE DEPARTMENT AND OFFERED OR APPROVED BY
12 THE AMERICAN RED CROSS, AMERICAN HEART ASSOCIATION, OR A COMPARABLE
13 ORGANIZATION OR INSTITUTION.

14 (D) PROVIDE PHYSICAL THERAPY SERVICES TO THAT PATIENT FOR NO
15 MORE THAN 45 CONSECUTIVE DAYS OR 20 VISITS, WHICHEVER OCCURS FIRST.

16 (E) IF THE PHYSICAL THERAPIST DETERMINES THAT NO SUBSTANTIAL
17 PROGRESS HAS BEEN MADE WITH RESPECT TO THAT PATIENT WITHIN 30 DAYS
18 SINCE THE PATIENT'S INITIAL VISIT, CONSULT WITH, OR REFER TO, AN
19 APPROPRIATE HEALTH CARE PROFESSIONAL UNLESS THE PATIENT WAS
20 PREVIOUSLY DIAGNOSED WITH CHRONIC, NEUROMUSCULAR, OR DEVELOPMENTAL
21 CONDITIONS AND THE PHYSICAL THERAPY SERVICES BEING PROVIDED ARE FOR
22 PROBLEMS OR SYMPTOMS ASSOCIATED WITH THE PREVIOUS DIAGNOSIS.

23 (4) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO CREATE
24 LIABILITY OF ANY KIND FOR A HEALTH CARE PROVIDER DESCRIBED UNDER
25 SUBSECTION (1) WHO DIAGNOSED THE INJURY OR CONDITION FOR WHICH
26 PHYSICAL THERAPY SERVICES WERE ORIGINALLY PRESCRIBED FOR A
27 CONDITION, ILLNESS, OR INJURY THAT MANIFESTED ITSELF AFTER THAT

1 PRIOR REFERRAL OR FOR ANY ALLEGED DAMAGES AS A RESULT OF PHYSICAL
2 THERAPY SERVICES PERFORMED WITHOUT A PRESCRIPTION OR REFERRAL FROM
3 A HEALTH CARE PROVIDER AS DESCRIBED UNDER SUBSECTION (1).

4 (5) AS USED IN THIS SECTION, "HEALTH FACILITY" MEANS A HEALTH
5 FACILITY OR AGENCY LICENSED UNDER ARTICLE 17.

6 Sec. 17822. This part does not prohibit a hospital, as a
7 condition of employment or the granting of staff privileges, from
8 requiring a physical therapist to practice in the hospital only
9 upon the prescription of an individual holding a license issued
10 under part 166, 170, 175, or 180 or the equivalent license issued
11 by another state OR AS OTHERWISE AUTHORIZED UNDER SECTION 17820(2).

12 SEC. 17823. (1) THE DEPARTMENT, IN CONSULTATION WITH THE
13 BOARD, SHALL PROMULGATE RULES TO ESTABLISH CONTINUING EDUCATION
14 REQUIREMENTS FOR PHYSICAL THERAPISTS. NOTWITHSTANDING THE
15 REQUIREMENTS OF PART 161, BEGINNING THE LICENSE YEAR AFTER THE
16 EFFECTIVE DATE OF THE RULES PROMULGATED UNDER THIS SUBSECTION, AN
17 INDIVIDUAL SHALL MEET THE CONTINUING EDUCATION REQUIREMENTS
18 ESTABLISHED UNDER THIS SUBSECTION. THE DEPARTMENT, IN CONSULTATION
19 WITH THE BOARD, SHALL PROMULGATE RULES TO REQUIRE LICENSEES SEEKING
20 RENEWAL TO FURNISH EVIDENCE ACCEPTABLE TO THE DEPARTMENT AND THE
21 BOARD OF THE SUCCESSFUL COMPLETION, DURING THE PRECEDING LICENSE
22 YEAR, OF THOSE CONTINUING EDUCATION REQUIREMENTS.

23 (2) AS REQUIRED UNDER SECTION 16204, THE DEPARTMENT, IN
24 CONSULTATION WITH THE BOARD, SHALL PROMULGATE RULES REQUIRING EACH
25 APPLICANT FOR LICENSE RENEWAL TO COMPLETE AS PART OF THE CONTINUING
26 EDUCATION REQUIREMENT OF SUBSECTION (1) AN APPROPRIATE NUMBER OF
27 HOURS OR COURSES IN PAIN AND SYMPTOM MANAGEMENT.

1 (3) IN ADDITION TO THE RULES PROMULGATED UNDER SUBSECTION (1),
2 THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, SHALL PROMULGATE
3 RULES TO ESTABLISH CONTINUING EDUCATION REQUIREMENTS THAT A
4 PHYSICAL THERAPIST MUST COMPLETE BEFORE EVALUATING OR TREATING AN
5 INDIVIDUAL WITHOUT A PRESCRIPTION OR REFERRAL AS PROVIDED UNDER
6 SECTION 17820. THE CONTINUING EDUCATION REQUIREMENTS ESTABLISHED
7 UNDER THIS SUBSECTION SHALL INCLUDE, AT A MINIMUM, AT LEAST 20
8 ADDITIONAL HOURS OF CONTINUING EDUCATION IN SUBJECTS RELATED TO THE
9 PRACTICE OF PHYSICAL THERAPY AND AT LEAST 18 HOURS OF INSTRUCTION
10 DESIGNED TO ENABLE A PHYSICAL THERAPIST TO IDENTIFY SIGNS AND
11 SYMPTOMS OF SYSTEMIC DISEASE.

12 SEC. 17824. (1) THE DEPARTMENT, IN CONSULTATION WITH THE
13 BOARD, SHALL PROMULGATE RULES TO ESTABLISH STANDARDS OF ETHICS AND
14 STANDARDS OF PRACTICE FOR PHYSICAL THERAPISTS.

15 (2) A PHYSICAL THERAPIST SHALL ADHERE TO THE STANDARDS OF
16 ETHICS, STANDARDS OF PRACTICE, AND SUPERVISION GUIDELINES
17 ESTABLISHED IN THE RULES PROMULGATED UNDER SUBSECTION (1).

18 (3) A PHYSICAL THERAPIST SHALL REFER A PATIENT TO AN
19 APPROPRIATE HEALTH CARE PROFESSIONAL IF THE PHYSICAL THERAPIST HAS
20 REASONABLE CAUSE TO BELIEVE THAT SYMPTOMS OR CONDITIONS ARE PRESENT
21 THAT REQUIRE SERVICES BEYOND THE SCOPE OF PRACTICE OF PHYSICAL
22 THERAPY.

23 (4) A PHYSICAL THERAPIST SHALL CONSULT WITH AN APPROPRIATE
24 HEALTH CARE PROFESSIONAL IF A PATIENT DOES NOT SHOW REASONABLE
25 RESPONSE TO TREATMENT IN A TIME PERIOD CONSISTENT WITH THE
26 STANDARDS OF PRACTICE ESTABLISHED IN THE RULES PROMULGATED UNDER
27 SUBSECTION (1).

1 SEC. 17825. THIS PART DOES NOT REQUIRE NEW OR ADDITIONAL THIRD
2 PARTY REIMBURSEMENT OR MANDATED WORKER'S COMPENSATION BENEFITS FOR
3 PHYSICAL THERAPY SERVICES RENDERED BY AN INDIVIDUAL LICENSED OR
4 OTHERWISE AUTHORIZED UNDER THIS ARTICLE.