

SENATE BILL NO. 1124

June 30, 2022, Introduced by Senator WOZNIAK and referred to the Committee on Health Policy and Human Services.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 16281, 16905, 18101, 18105, 18106, 18111,
18114, and 18117 (MCL 333.16281, 333.16905, 333.18101, 333.18105,
333.18106, 333.18111, 333.18114, and 333.18117), section 16281 as
added and section 18117 as amended by 1998 PA 496, section 16905 as
amended by 2006 PA 388, sections 18101 and 18111 as amended and
sections 18106 and 18114 as added by 2019 PA 96, and section 18105
as amended by 2006 PA 429.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16281. (1) If there is a compelling need for records or
2 information to determine whether child abuse or child neglect has
3 occurred or to take action to protect a child where there may be a
4 substantial risk of harm, a ~~family independence agency~~ **department**
5 **of health and human services** caseworker or administrator directly
6 involved in the child abuse or **child** neglect investigation shall
7 notify a licensee or registrant that a child abuse or **child** neglect
8 investigation has been initiated regarding a child who has received
9 services from the licensee or registrant and shall request in
10 writing the child's medical records and information that are
11 pertinent to that investigation. ~~Upon~~ **On the** receipt of this
12 notification and request, the licensee or registrant shall review
13 all of the child's medical records and information in the
14 licensee's or registrant's possession to determine if there are
15 medical records or information that is pertinent to that
16 investigation. Within 14 days after receipt of a request made under
17 this subsection, the licensee or registrant shall release those
18 pertinent medical records and information to the **department of**
19 **health and human services** caseworker or administrator directly
20 involved in the child abuse or **child** neglect investigation.

21 (2) The following privileges do not apply to medical records
22 or information released or made available under subsection (1):

23 (a) The physician-patient privilege created in section 2157 of
24 the revised judicature act of 1961, 1961 PA 236, MCL 600.2157.

25 (b) The dentist-patient privilege created in section 16648.

26 (c) The licensed professional counselor-client and limited
27 licensed **professional** counselor-client privilege created in section
28 18117.

1 (d) The psychologist-patient privilege created in section
2 18237.

3 (e) Any other health professional-patient privilege created or
4 recognized by law.

5 (3) To the extent not protected by the immunity conferred by
6 1964 PA 170, MCL 691.1401 to ~~691.1415~~, **691.1419**, an individual who
7 in good faith provides access to medical records or information
8 under this section is immune from civil or administrative liability
9 arising from that conduct, unless the conduct was gross negligence
10 or willful and wanton misconduct.

11 (4) This section does not apply to a report, record, datum, or
12 information whose confidentiality and disclosure are governed by
13 section 5131.

14 (5) A duty under this act relating to child abuse and **child**
15 neglect does not alter a duty imposed under another statute,
16 including the child protection law, 1975 PA 238, MCL 722.621 to
17 722.638, regarding the reporting or investigation of child abuse or
18 **child** neglect.

19 Sec. 16905. (1) This part does not apply to an individual
20 engaged in the practice of social work as defined in part 185, in
21 the course of employment with a governmental agency or a reputable
22 social service agency regularly providing social work services as
23 an agency.

24 (2) This part does not apply to an ordained cleric or other
25 religious practitioner who is employed by or working under the
26 authority of an organization exempt from taxation under section
27 501(c)(3) of the internal revenue code of 1986, 26 USC 501, if the
28 advice or counsel given by the cleric or other religious
29 practitioner is incidental to his or her duties as a cleric or

1 other religious practitioner, and if the cleric or other religious
2 practitioner does not hold himself or herself out to the public as
3 a marriage and family therapist licensed under this article or use
4 1 or more of the titles listed in section 16903 and if no fee or
5 donation is exacted for the service.

6 (3) This part does not apply to a physician licensed under
7 this article who has completed an accredited psychiatric residency
8 program approved by the Michigan board of medicine or to a
9 psychologist fully licensed under this article, if both of the
10 following circumstances exist:

11 (a) The individual is practicing his or her profession in a
12 manner consistent with his or her education and training and is
13 practicing in a manner consistent with the code of ethics of that
14 profession.

15 (b) The individual does not hold himself or herself out to the
16 public as a marriage and family therapist licensed under this
17 article or use any of the titles listed in section 16903 for
18 advertising purposes. However, this subdivision does not prohibit
19 the individual from advertising under a telephone or other business
20 directory listing that uses those titles if the individual
21 discloses in the listing, in an unabbreviated fashion, the
22 profession in which he or she is licensed.

23 (4) This part does not limit an individual in, or prevent an
24 individual from, the practice of a statutorily regulated profession
25 or occupation if services to families, couples, or subsystems of
26 families are part of the services provided by that profession or
27 occupation, and if the individual does not hold himself or herself
28 out to the public as a marriage and family therapist licensed under
29 this article or use 1 or more of the titles listed in section

1 16903. As used in this subsection, "statutorily regulated
2 profession or occupation" means an occupation or profession
3 regulated by statute that includes, but is not limited to, all of
4 the following: a physician, attorney, social worker, social service
5 technician, fully licensed psychologist, limited licensed
6 psychologist, temporary limited licensed psychologist, licensed
7 professional counselor, limited licensed **professional** counselor, or
8 school counselor.

9 Sec. 18101. As used in this part:

10 (a) "Clinical counseling principles, methods, or procedures"
11 means 1 or more of the following:

12 (i) Psychotherapy, the diagnosis and treatment planning for
13 mental and emotional disorders, and evaluation.

14 (ii) Selecting, administering, scoring, and interpreting
15 assessments, tests, and appraisals that are designed to assess an
16 individual's aptitudes, interests, attitudes, abilities,
17 achievements, and personal characteristics in order to use
18 appraisal and diagnostic results in helping processes.

19 (iii) Psychoeducational consulting. As used in this
20 subparagraph, "psychoeducational consulting" means assisting a
21 consultee that is working with an individual, small group, or
22 organization by identifying problems, strengths, and weaknesses and
23 making recommendations for the implementation of preventative or
24 remedial strategies.

25 (iv) Counseling techniques. As used in this subparagraph:

26 (A) "Counseling techniques" means the application of basic
27 counseling and psychotherapy skills and theories in the counseling
28 process for the purposes of establishing and maintaining the
29 counseling relationship; diagnosing the problem; formulating a

1 preventative, treatment, or rehabilitative plan; and facilitating
2 appropriate interventions.

3 (B) "Diagnosing the problem" means the identification of the
4 problem through the application of recognized counseling techniques
5 and psychotherapy skills and theories, including the use of the
6 classifications and diagnoses in the Diagnostic and Statistical
7 Manual for Mental Disorders, obtained through the successful
8 completion of a qualified program. Diagnosing the problem does not
9 include the identification of other medical or physical conditions.

10 (v) Behavioral modification techniques. As used in this
11 subparagraph, "behavioral modification techniques" means assisting
12 clients in identifying maladaptive or harmful behaviors and
13 replacing them with adaptive and helpful behaviors.

14 (vi) Referral. As used in this subparagraph, "referral"
15 includes determining the need for referral to 1 or more statutorily
16 regulated mental health professionals whose expertise, skills, and
17 competence are appropriate to the problems of the individual,
18 informing the individual of the referral, and communicating as
19 appropriate with the professional to whom the individual has been
20 referred.

21 (vii) Preventative techniques. As used in this subparagraph,
22 "preventative techniques" means assisting a client in maintaining
23 mental and emotional well-being and preventing emotional distress
24 and mental illness.

25 (viii) Establishing a counseling plan for the treatment of 1 or
26 more of the following disorders of an individual, couple, group, or
27 family:

28 (A) An emotional disorder.

29 (B) A mental disorder.

1 (C) An addiction disorder.

2 (D) A physical disorder that requires a counseling
3 intervention.

4 (ix) Promoting mental health wellness. As used in this
5 subparagraph, "mental health wellness" means the achievement of
6 social, career, and emotional development across an individual's
7 life span.

8 (x) Preventing and treating mental and emotional disorders. As
9 used in this subparagraph, "preventing and treating mental and
10 emotional disorders" includes the use of crisis intervention.

11 (b) "Licensed professional counselor" means an individual who
12 is licensed under this article to engage in the practice of
13 counseling without supervision.

14 (c) "Limited licensed **professional** counselor" or "**limited**
15 **licensed counselor**" means an individual who has been granted a
16 limited license under this article to engage in the practice of
17 counseling under the supervision of a licensed professional
18 counselor who meets the requirement of section 18106.

19 (d) Except as otherwise provided in subdivision (e), "practice
20 of counseling" or "counseling" means the rendering to individuals,
21 groups, families, organizations, or the general public in
22 accordance with accepted and established ethics a service involving
23 clinical counseling principles, methods, or procedures for the
24 purpose of achieving social, personal, career, and emotional
25 development and with the goal of promoting and enhancing healthy
26 self-actualizing and satisfying lifestyles whether the services are
27 rendered in an educational, business, health, private practice, or
28 human services setting.

29 (e) The practice of counseling does not include the practice

1 of psychology except for those preventive techniques, counseling
2 techniques, or behavior modification techniques for which the
3 licensed professional counselor or limited licensed **professional**
4 counselor has been specifically trained. The practice of counseling
5 does not include the practice of medicine or osteopathic medicine
6 and surgery, including, but not limited to, the differential
7 diagnosis of medical conditions or disorders, prescribing drugs, or
8 administering electroconvulsive therapy. A counselor shall not hold
9 himself or herself out as any of the following:

10 (i) A psychologist as **that term is** defined in section 18201.

11 (ii) A marriage and family therapist as **that term is** defined in
12 section 16901.

13 (iii) A licensed bachelor's social worker or a licensed master's
14 social worker as those terms are defined in section 18501.

15 (f) "Qualified program" means any of the following:

16 (i) A program that is accredited by the Council for the
17 Accreditation of Counseling and Related Educational Programs,
18 includes coursework and training in the diagnosis and treatment of
19 mental and emotional disorders, and is approved by the department
20 in consultation with the board.

21 (ii) A program that is not accredited by the Council for the
22 Accreditation of Counseling and Related Educational Programs,
23 includes coursework and training in the diagnosis and treatment of
24 mental and emotional disorders and all other coursework
25 requirements of the Council for the Accreditation of Counseling and
26 Related Educational Programs, including practicum and internship
27 requirements, and is approved by the department in consultation
28 with the board.

29 Sec. 18105. (1) A licensee shall not perform any acts, tasks,

1 or functions within the practice of counseling unless he or she is
2 trained to perform such acts, tasks, or functions.

3 (2) ~~Effective October 1, 1990, a person~~ **An individual** shall
4 not engage in the practice of counseling unless licensed or
5 otherwise authorized under this article.

6 (3) The following words, titles, or letters or a combination
7 thereof, with or without qualifying words or phrases, are
8 restricted in use only to those ~~persons~~ **individuals** authorized
9 under this part to use the terms and in a way prescribed in this
10 part: "licensed professional counselor", "licensed counselor",
11 "professional counselor", ~~and "l.p.c."~~, **"limited licensed**
12 **professional counselor", and "l.l.p.c."**.

13 Sec. 18106. A licensed professional counselor shall not
14 supervise a limited licensed **professional** counselor without
15 completing training in supervision as required by rules promulgated
16 by the department in consultation with the board.

17 Sec. 18111. (1) Subject to subsection (3), the department may
18 grant a limited license to an individual who meets both of the
19 following criteria:

20 (a) Is not less than 18 years of age.

21 (b) Has received, from an accredited college or university
22 approved by the department, a master's or doctoral degree in
23 counseling from a qualified program, or a degree determined by the
24 department in consultation with the board to be substantially
25 equivalent to a counseling degree from a qualified program. The
26 department in consultation with the board shall promulgate rules to
27 establish standards to approve qualified programs.

28 (2) A limited license granted under this section must require
29 that the individual confine his or her practice to a program of

1 counseling experience under the supervision of a licensed
2 professional counselor.

3 (3) The department in consultation with the board shall
4 promulgate rules under section 16145 as necessary or appropriate to
5 supplement the requirements for licensure under this part as a
6 limited licensed **professional** counselor, including adopting updated
7 standards of the Council for the Accreditation of Counseling and
8 Related Educational Programs or a successor organization.

9 Sec. 18114. (1) Except as otherwise provided in subsection
10 (3), the department may grant relicensure as a licensed
11 professional counselor or limited licensed **professional** counselor
12 to an individual who is applying for relicensure less than 3 years
13 after the expiration date of his or her license, if the individual
14 submits to the department a completed application on a form
15 provided by the department together with payment of the fees
16 described in section 16201(3), and he or she complies with both of
17 the following:

18 (a) Submits with his or her application a professional
19 disclosure statement that meets the requirements of section 18113.

20 (b) If the individual holds or has held a license as a
21 licensed professional counselor or limited licensed **professional**
22 counselor in another state, ensures that the licensing agency of
23 each out-of-state license verifies all of the following on a form
24 provided by the department:

25 (i) That disciplinary proceedings are not pending against the
26 individual at the time of his or her application for relicensure.

27 (ii) That if sanctions have been imposed against the
28 individual, the sanctions are not in force at the time of his or
29 her application for relicensure.

1 (2) Except as otherwise provided in subsection (3), the
2 department may grant relicensure as a licensed professional
3 counselor or limited licensed **professional** counselor to an
4 individual who is applying for relicensure more than 3 years after
5 the expiration date of his or her license, if the individual
6 submits to the department a completed application on a form
7 provided by the department together with payment of the fees
8 described in section 16201(4) and a professional disclosure
9 statement that meets the requirements of section 18113, and he or
10 she complies with 1 of the following:

11 (a) Takes or retakes and passes 1 of the following:

12 (i) The national counselor examination developed by the
13 National Board for Certified Counselors.

14 (ii) The certification examination given by the Commission on
15 Rehabilitation Counselor Certification.

16 (iii) An examination that the department determines is
17 equivalent to an examination described in subparagraph (i) or (ii).

18 (b) Demonstrates to the satisfaction of the department that he
19 or she meets the requirements for certification issued by the
20 National Board for Certified Counselors, the Commission on
21 Rehabilitation Counselor Certification, or an equivalent program as
22 determined by the department.

23 (3) The department may grant relicensure as a licensed
24 professional counselor or limited licensed **professional** counselor
25 to an individual who received a master's or doctoral degree in
26 counseling or student personnel work before October 1, 1991, and
27 completed 2 years of professional experience before October 1,
28 1993, if the individual submits to the department a completed
29 application on a form provided by the department together with

1 payment of the applicable fees described in section 16201(3) or (4)
2 and he or she complies with 1 of the following:

3 (a) Submits with his or her application a professional
4 disclosure statement that meets the requirements of section 18113.

5 (b) If the individual holds or has held a license as a
6 licensed professional counselor or limited licensed **professional**
7 counselor in another state, ensures that the licensing agency of
8 each out-of-state license verifies all of the following on a form
9 provided by the department:

10 (i) That disciplinary proceedings are not pending against the
11 individual at the time of his or her application for relicensure.

12 (ii) That if sanctions have been imposed against the
13 individual, the sanctions are not in force at the time of his or
14 her application for relicensure.

15 Sec. 18117. For the purposes of this part, the confidential
16 relations and communications between a licensed professional
17 counselor or a limited licensed **professional** counselor and a client
18 of the licensed professional counselor or a limited licensed
19 **professional** counselor are privileged communications, and this part
20 does not require a privileged communication to be disclosed, except
21 as otherwise provided by law. Confidential information may be
22 disclosed only upon consent of the client, pursuant to section
23 16222 if the licensee reasonably believes it is necessary to
24 disclose the information to comply with section 16222, or under
25 section 16281.