

MEMORANDUM

TO: The Reproductive Health Access Project
FROM: Law Students for Reproductive Justice, Georgetown Chapter*
RE: Provider Licensing Requirements – **Michigan (Revised)**
DATE: January 18th, 2016

*not formally affiliated with the Georgetown University Law Center.

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A. Requirements for a Professional License

A. Standard Application Process – Physician

To qualify for a license to practice medicine in Michigan, the applicant must:

- a) Be at least 18 years of age;
- b) Be of good moral character;
- c) Complete the required course of education;
- d) Have working knowledge of the English language; and
- e) Pay the appropriate fees.

MICH. COMP. LAWS ANN. § 333.16174(1) (West, Westlaw through 2015).

An applicant may also be required to take an examination to determine if the applicant meets the qualifications for licensure. MICH. COMP. LAWS ANN. § 333.16177(1) (West, Westlaw through 2015). Applicants must complete a period of postgraduate education as required by the Board. MICH. COMP. LAWS ANN. § 333.17031(West, Westlaw through 2015). Under the Board regulations, this means that the applicant must have satisfactorily completed 2 years of postgraduate clinical training, in a Board-approved program, in a Board-approved hospital or institution. MICH. ADMIN. CODE r. 338.2317(4) (Westlaw through 2015). The applicant must also pass a qualifying examination.¹ MICH. ADMIN. CODE r. 338.2317(3) (Westlaw through 2015).

In addition, the applicant must demonstrate that there are no disciplinary proceedings pending against them, and that there are not any sanctions in force imposed on him/her by equivalent licensing boards in any other jurisdictions. The applicant must file with the Board “a written, signed consent to the release of information regarding a disciplinary investigation involving the applicant” conducted by equivalent licensing boards in any other jurisdictions. The applicant must submit fingerprints for a criminal background check and disclose all relevant information related to the applicant’s criminal or disciplinary history. MICH. COMP. LAWS ANN. § 333.16174(2) (West, Westlaw through 2015); MICH. COMP. LAWS ANN. § 333.16177 (West, Westlaw through 2015). Further, the applicant must report the names of all hospitals in which he or she is allowed to practice. MICH. COMP. LAWS ANN. § 333.16177(3) (West, Westlaw through 2015).

¹ As in most states, there are additional and/or different requirements for graduates of foreign medical schools. See MICH. ADMIN. CODE r. 338.2316 (Westlaw through 2015).

2015). The Board is also authorized to request additional information or make further inquiries into an applicant's fitness to practice medicine. MICH. COMP. LAWS ANN. § 333.16174(4) (West, Westlaw through 2015).

The applicant must also pay the required application fee of \$50 and the annual license fee of \$90. MICH. COMP. LAWS ANN. § 333.16325 (West, Westlaw through 2015).

B. Standard Application Process – Physician Assistant

The applicant must meet three provisions of § 333.16174(1):

- (a) Be at least 18 years of age
- (b) Be of good moral character
- (c) Have working knowledge of the English language.

MICH. COMP. LAWS ANN. § 333.16174(1) (West, Westlaw through 2015); MICH. COMP. LAWS ANN. § 333.17062 (West, Westlaw through 2015).

Additionally, an applicant must graduate from a physician assistant training program approved by the task force. As an alternative, the applicant may be licensed, approved, or legally recognized as a physician assistant in another state. MICH. COMP. LAWS ANN. § 333.17062 (West, Westlaw through 2015). The applicant must also pass an examination; this requirement may be waived if the applicant has passed an alternative, national examination or is licensed in another state, in which the qualifications for licensure, including the required examination, are substantially equivalent to this state. MICH. COMP. LAWS ANN. § 333.17064(1) (West, Westlaw through 2015). A license fee for physician's assistants is \$50 per year, and the application processing fee is \$30. MICH. COMP. LAWS ANN. § 333.16337 (West, Westlaw through 2015).

A physician assistant, unless in an emergency situation, may provide services only under the supervision of a physician; the services provided must be delegated by the supervising physician and within the scope of the practice of the supervising physician. MICH. COMP. LAWS ANN. § 333.17076(1) (West, Westlaw through 2015).

C. Standard Application Process – Nurse

A licensed nurse must meet the requirements of § 333.16174. MICH. COMP. LAWS ANN. § 333.17213 (West, Westlaw through 2015). If applying for licensure by examination, the applicant must demonstrate that he or she meets the eligibility requirements for the examination and must pass the examination. MICH. ADMIN. CODE r. 338.10203 (Westlaw through 2015). Additional requirements must be met to qualify for a registered professional nurse license if the individual is a graduate of a program located outside of the United States; the applicant must meet the requirements of § 333.16174, provide verification that the program from the individual graduated is substantially equivalent to the programs in this state, and pass the requisite examination. MICH. COMP. LAWS ANN. § 333.17213 (West, Westlaw through 2015). The application processing fee for licensure is \$24; the license fee per year is \$30.

A nurse may be granted a specialty certification as a nurse anesthetist, nurse midwife, or nurse practitioner if the applicant meets additional specifications set forth by the American Association or Nurse Anesthetists Council, the American College of Nurse Midwives Certification Council, and the American Nurses Credentialing Center, respectively. MICH. ADMIN. CODE r. 338.10404 (Westlaw through 2015). The board of nursing may certify an individual as a registered professional nurse if that individual:

- (a) Practices as a nurse midwife, a nurse anesthetist, or a nurse practitioner
- (b) has advanced training;
- (c) has demonstrated competency through examination or other evaluative processes.

MICH. COMP. LAWS ANN. § 333.17210 (West, Westlaw through 2015)

The specialty certification for a registered nurse costs \$24 for the application processing fee and \$14 for the specialty certification, per year. MICH. COMP. LAWS ANN. § 333.16327 (West, Westlaw through 2015).

D. Temporary License

The Board has the authority to grant a nonrenewable, temporary license to an applicant who has completed all of the licensure requirements except for the examination (or other required evaluation procedure). An applicant who has previously failed the examination or other required evaluation procedure may not obtain a temporary license. The Board also cannot grant a temporary license to an individual whose license has been suspended or revoked. The temporary license is valid for 18 months, but is automatically void if the applicant fails the examination or other evaluation procedure. Other temporary licenses are available for applicants who are married to active members of the armed forces and meet other requirements. MICH. COMP. LAWS ANN. § 333.16181 (West, Westlaw through 2015).

The holder of a temporary license issued “shall practice only under the supervision of a licensee who holds a license (not a limited or temporary license), other than a health profession subfield license, in the same health profession.” MICH. COMP. LAWS ANN. § 333.16181(3) (West, Westlaw through 2015). The fee for a temporary license is \$25 for physicians, \$25 for physician assistants, and \$10 for nurses. MICH. COMP. LAWS ANN. § 333.16325© (West, Westlaw through 2015); MICH. COMP. LAWS ANN. § 333.16337 (West, Westlaw through 2015); MICH. COMP. LAWS ANN. § 333.16327 (West, Westlaw through 2015).

The Michigan Board of nursing may grant a non-renewable, temporary license to an applicant to engage in nursing as a registered professional nurse if the applicant is registered as a professional nurse by an equivalent licensing board in another state or Canada. MICH. COMP. LAWS ANN. § 333.16181(2) (West, Westlaw through 2015).

E. Licensure By Endorsement

The Board may issue a license to an individual licensed in another state if that medical professional substantially meets the requirements for licensure in Michigan. MICH. COMP. LAWS ANN. § 333.16186(1) (West, Westlaw through 2015). If an applicant was licensed in another state and has been engaged in the practice of medicine for 10 years or more before filing the application for Michigan licensure, the Board will presume that the applicant is qualified. If the applicant has not practiced elsewhere for more than 10 years, he or she must have been licensed after passing an examination that the Board finds to have been substantially equivalent to the examination required in Michigan in the same year.² If the applicant was first licensed elsewhere after August 31, 1989, he or she must have satisfactorily completed 2 years of postgraduate clinical training in a Board-approved program in a Board-approved hospital or institution. If the initial licensure was before September 1, 1989, the applicant need only have completed one year of postgraduate training. MICH. ADMIN. CODE r. 338.2318 (Westlaw through 2015). Provisions applying to nurse-specific licenses by endorsement can be found at MICH. ADMIN. CODE r. 338.10206 (Westlaw through 2015).

If there is a sanction in force against the applicant in another state, the Board must determine that it should not prevent the applicant from being granted a license in Michigan. In making that determination, the Board will consider whether the sanction is permanent, whether it is the result of a patient safety violation, and whether the applicant would agree to complete a probationary period or treatment plan in Michigan. MICH. COMP. LAWS ANN. § 333.17011(4) (West, Westlaw through 2015). The Board may require the applicant for licensure by reciprocity to appear before it for an interview. MICH. COMP. LAWS ANN. § 333.16186(2) (West, Westlaw through 2015).

F. Telemedicine Licensure Requirements

In Michigan, telemedicine means “the use of an electronic media to link patients with health care professionals in different locations.” The professional “must be able to examine the patient via a real-time, interactive audio or video, or both, telecommunications system and the patient must be able to interact with the off-site health care professional at the time the services are provided.” This section applies to a policy, certificate, or contract issued or renewed on or after January 1, 2013. MICH. COMP. LAWS ANN. § 500.3476 (West, Westlaw through 2015).

To provide telemedicine services, the health care professional must be licensed, registered, or otherwise authorized to engage in his/her health care profession in the state where the patient is located. Telemedicine services are subject to all terms and conditions of the relevant policy or contract between the contract holder and the insurer. MICH. COMP. LAWS ANN. § 500.3476 (West, Westlaw through 2015).

² The Board has created a list of factors to be considered in determining the equivalency of examinations. See MICH. ADMIN. CODE r. 338.2319 (Westlaw through 2015). There are additional requirements for applicants who have not graduated from a medical school located in the U.S., territories of the U.S., D.C., or Canada. See MICH. ADMIN. CODE r. 338.2318(3)(c) (Westlaw through 2015).

G. Special Volunteer License

A special volunteer license allows a retired medical professional to donate his or her expertise for the medical care of indigent and needy individuals in Michigan. The applicant must be in good standing at the time of his/her license expiration, must acknowledge that he/she will not receive compensation for his/her services, and must provide proof of continuing education course attendance if out of practice for more than three years. The applicant will only engage in activities within the scope of the practice for which he/she was licensed before retirement. MICH. COMP. LAWS ANN. § 333.16184 (West, Westlaw through 2015).

H. Exemptions from Licensure Requirements

Certain individuals may practice medicine in Michigan without a license. The relevant exceptions include students in training in Board-approved programs performing assigned tasks; individuals authorized to practice in another state who consult with a Michigan health professional under exceptional circumstances; and individuals authorized to practice in an adjacent state who do not maintain an office in Michigan. MICH. COMP. LAWS ANN. § 333.16171 (West, Westlaw through 2015). Also exempt are individuals authorized to practice medicine in their home state when attending meetings or conducting lectures, seminars or demonstrations under the auspices of professional associations or training institutions in Michigan, so long as the out-of-state individual does not maintain an office or designate a place to meet patients or receive calls in Michigan. *Id.*

B. Limited Licenses

The Board may grant a limited license to an individual if it determines that the limitation is consistent with the individual's ability to practice medicine safely or if it is necessary to protect patient health and safety. MICH. COMP. LAWS ANN. § 333.16182 (West, Westlaw through 2015). Additionally, the Board of Medicine has established other forms of limited licenses. Two relevant limited licenses are:

i. Educational Limited License

This license is intended for postgraduate medical study and is discussed further below ("Physician Training").

ii. Clinical Academic Limited License

A clinical academic limited license allows the holder to practice only for an academic institution under the supervision of one or more fully licensed physicians. MICH. COMP. LAWS ANN. § 333.16182 (West, Westlaw through 2015); MICH. COMP. LAWS ANN. § 333.17030 (West, Westlaw through 2015). The applicant must be a graduate of a Board-approved medical school, or its equivalent, and must have been appointed to a teaching or research position in an academic institution. MICH. ADMIN. CODE r. 338.2327(a) (Westlaw through 2015). An "academic

institution” is either a medical school approved by the Board or a licensed hospital that has had at least 4 Board-approved residency programs for at least 3 years immediately preceding the application for a limited license. MICH. COMP. LAWS ANN. § 333.17001(1)(a) (West, Westlaw through 2015).

This license is renewable annually for up to a total of 5 years. MICH. COMP. LAWS ANN. § 333.17030(2) (West, Westlaw through 2015). The fee for a physician limited license is \$30 per year. MICH. COMP. LAWS ANN. § 333.16325(d) (West, Westlaw through 2015). The fee for a physician’s assistant limited license is \$25 per year. MICH. COMP. LAWS ANN. § 333.16337 (West, Westlaw through 2015). The fee for a nurse limited license is \$10 per year. MICH. COMP. LAWS ANN. § 333.16327 (West, Westlaw through 2015).

C. Physician Training

A. Physician Training

a. Medical Students

As described above, students in training in Board-approved medical schools are exempt from licensure requirements when performing duties assigned in the course of training. MICH. COMP. LAWS ANN. § 333.16171(a) (West, Westlaw through 2015).

b. Postgraduate Training

No one may engage in postgraduate medical study that requires the practice of medicine, without a full or limited license to practice in Michigan. A limited license for a postgraduate (sometimes referred to as an Educational Limited License) allows the holder to practice and train only in a hospital or institution that the Board has approved for that purpose. The hospital or institution is responsible for the training. MICH. COMP. LAWS ANN. § 333.17012 (West, Westlaw through 2015). To qualify for an Educational Limited License, the applicant must establish that he/she has graduated or is expected to graduate within 3 months from a board-approved medical school and that he/she has been admitted into a training program approved by the board offered at a board-approved hospital or institution. MICH. ADMIN. CODE r. 338.2329a (Westlaw through 2015)

This limited license is renewable for up to 5 years, and costs \$30 per year. MICH. COMP. LAWS ANN. § 333.17012 (West, Westlaw through 2015); MICH. COMP. LAWS ANN. § 333.16325(d) (West, Westlaw through 2015).

B. Physician Assistant Training

a. Physician Assistant Students

Physician assistant students in training programs approved by the taskforce on physician’s assistants do not require licenses while performing duties assigned in the course of training.

MICH. COMP. LAWS ANN. § 333.16171(a) (West, Westlaw through 2015); MICH. COMP. LAWS ANN. § 333.17056 (West, Westlaw through 2015); MICH. COMP. LAWS ANN. § 333.17054 (West, Westlaw through 2015). The Accreditation Review Commission on Education for the Physician Assistant has adopted standards for approved training programs found at arc-pa.org. MICH. ADMIN. CODE r. 338.6201 (Westlaw through 2015).

b. Postgraduate Training

No one can engage in postgraduate study before obtaining a full or limited license to practice as a physician's assistant. A limited license allows the holder to practice only at a hospital or institution approved by the board for training. The hospital or institution is responsible for training. MICH. COMP. LAWS ANN. § 333.17152 (West, Westlaw through 2015). The license is renewable for a maximum of five years. *Id.* A limited license is 25 dollars per year. MICH. COMP. LAWS ANN. § 333.16337(d) (West, Westlaw through 2015).

D. Denial and Revocation of Licenses

A physician can face restrictions on his license for violation of certain abortion laws. For violations of MICH. COMP. LAWS ANN. § 333.17015 (general abortion regulations, informed consent), 333.17015(a) (coerced abortion), 333.17017 (diagnosing and prescribing abortions), 333.17515 and 333.17517, the board may revoke, deny, suspend, or limit a physician's license, as well as reprimand, require restitution or a fine, or put the physician on probation. MICH. COMP. LAWS ANN. § 333.16226 (West, Westlaw through 2015). For violations of procedures regarding partial birth abortions, a physician's license may be revoked or denied – there are no lesser sanctions. *Id.* A physician can only perform partial birth abortions if necessary to save a pregnant woman. MICH. COMP. LAWS ANN. § 333.17016 (West, Westlaw through 2015).

If a physician's license has been permanently revoked, she cannot obtain a new license or be authorized to practice medicine again. MICH. COMP. LAWS ANN. § 333.16245(a) (West, Westlaw through 2015). Other grounds for investigation conviction of specific types of misdemeanors, felonies, or other violations of the penal code; lack of good moral character; fraudulent behavior, etc. MICH. COMP. LAWS ANN. § 333.16221 (West, Westlaw through 2015).

E. Restrictions on the Provision of Abortion Services

A. Physician-only laws

It is a misdemeanor to advertise, publish, sell, or public expose for sale any drugs designed for the purpose of procuring an abortion. MICH. COMP. LAWS ANN. § 750.15 (West, Westlaw through 2015). Any non-physician who willfully administers any drug or substance with the intention of causing a miscarriage, unless necessary to preserve a woman's life, is guilty of a felony. MICH. COMP. LAWS ANN. § 750.14 (West, Westlaw through 2015). A court held that this ban does not apply to abortions authorized by a pregnant woman's attending physician in the exercise of his medical judgment. *People v. Bricker*, 208 N.W.2d 172, 174 (Mich. 1973).

B. Freestanding Surgical Outpatient Facilities

Health facilities, including private practice offices, that perform more than 120 abortions per year and publicly advertise outpatient abortion services are considered “pregnancy termination facilities” and must be licensed as freestanding surgical outpatient facilities. MICH. ADMIN. CODE r. 325.3801 (Westlaw through 2015); MICH. ADMIN. CODE r. 325.3802 (Westlaw through 2015). Freestanding surgical outpatient facilities must comply with structure standards comparable to those of surgical centers, including specific corridor width and the facility must be located within 30 minutes of a hospital with which the facility holds a written emergency admission agreement. MICH. ADMIN. CODE r. 325.3868 (Westlaw through 2015); MICH. ADMIN. CODE r. 325.3832 (Westlaw through 2015); GUTTMACHER, STATE POLICIES IN BRIEF: TARGETED REGULATION OF ABORTION PROVIDERS (Jan. 1, 2016), http://www.guttmacher.org/statecenter/spibs/spib_TRAP.pdf.