

HOUSE BILL No. 4434

March 2, 2005, Introduced by Reps. Hummel, Gaffney, Kahn, Vander Veen, Taub, Ball, Byrnes, Jones, Meyer and Caul and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 17708, 17751, 17752, and 17763 (MCL 333.17708, 333.17751, 333.17752, and 333.17763), sections 17708 and 17751 as amended by 1997 PA 153 and section 17763 as amended by 2004 PA 536, and by adding section 17753.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17708. (1) "Preceptor" means a pharmacist approved by the
2 board to direct the training of an intern in an approved pharmacy.

3 (2) "Prescriber" means a licensed dentist, a licensed doctor
4 of medicine, a licensed doctor of osteopathic medicine and surgery,
5 a licensed doctor of podiatric medicine and surgery, a licensed

1 optometrist certified under part 174 to administer and prescribe
2 therapeutic pharmaceutical agents, a licensed veterinarian, or
3 another licensed health professional acting under the delegation
4 and using, recording, or otherwise indicating the name of the
5 delegating licensed doctor of medicine or licensed doctor of
6 osteopathic medicine and surgery.

7 (3) "Prescription" means an order for a drug or device written
8 and signed or transmitted by other means of communication by a
9 prescriber to be filled, compounded, or dispensed. Prescribing is
10 limited to a prescriber. An order transmitted in other than written
11 form shall be recorded or written and immediately dated by the
12 pharmacist, and that record constitutes the original prescription.
13 In a health facility or agency licensed under article 17 or other
14 medical institution, an order for a drug or device in the patient's
15 chart constitutes for the purposes of this definition the original
16 prescription. Subject to section 17751(2), prescription includes,
17 but is not limited to, an order for a drug, not including a
18 controlled substance as defined in section 7104 except under
19 circumstances described in section ~~17763(g)~~ **17763(E)**, written and
20 signed or transmitted by other means of communication by a
21 physician prescriber licensed to practice in a state other than
22 Michigan.

23 (4) "Prescription drug" means 1 or more of the following:

24 (a) A drug dispensed pursuant to a prescription.

25 (b) A drug bearing the federal legend "CAUTION: federal law
26 prohibits dispensing without prescription".

27 (c) A drug designated by the board as a drug that may only be

1 dispensed pursuant to a prescription.

2 Sec. 17751. (1) A pharmacist shall not dispense a drug
3 requiring a prescription under the federal act or a law of this
4 state except under authority of an original prescription or an
5 equivalent record of an original prescription approved by the
6 board.

7 (2) A pharmacist may dispense a prescription written and
8 signed or transmitted by other means of communication by a
9 physician prescriber in a state other than Michigan, but not
10 including a prescription for a controlled substance as defined in
11 section 7104 except under circumstances described in section
12 ~~17763(g)~~ **17763(E)**, only if the pharmacist in the exercise of his
13 or her professional judgment determines all of the following:

14 (a) That the prescription was issued pursuant to an existing
15 physician-patient relationship.

16 (b) That the prescription is authentic.

17 (c) That the prescribed drug is appropriate and necessary for
18 the treatment of an acute, chronic, or recurrent condition.

19 (3) A pharmacist or a prescriber shall dispense a prescription
20 only if the prescription falls within the scope of practice of the
21 prescriber.

22 (4) A pharmacist shall not knowingly dispense a prescription
23 after the death of the prescriber or patient.

24 Sec. 17752. (1) A prescription, or an equivalent record
25 ~~thereof~~ **OF THE PRESCRIPTION** approved by the board, shall be
26 preserved by a licensee or dispensing prescriber for not less than
27 5 years.

1 (2) A prescription or equivalent record on file in a pharmacy
2 is not a public record. A person having custody of or access to
3 prescriptions shall not disclose their contents or provide copies
4 without the patient's authorization, to any person except to **ANY OF**
5 **THE FOLLOWING:**

6 (a) The patient for whom the prescription was issued, or
7 another pharmacist acting on behalf of the patient.

8 (b) The authorized prescriber who issued the prescription, or
9 a licensed health professional who is currently treating the
10 patient.

11 (c) An agency or agent of government responsible for the
12 enforcement of laws relating to drugs and devices.

13 (d) A person authorized by a court order.

14 (e) A person engaged in research projects or studies with
15 protocols approved by the board.

16 (3) A pharmacist may refill a copy of a prescription from
17 another pharmacy if the original prescription has remaining
18 authorized refills, and the copy is issued according to the
19 following procedure:

20 (a) The pharmacist issuing a written or oral copy of a
21 prescription shall cancel the original prescription and record the
22 cancellation. The record of cancellation shall include the date the
23 copy was issued, to whom issued, and the identification of the
24 pharmacist who issued the copy.

25 (b) The written or oral copy issued shall be a duplicate of
26 the original prescription except that it shall also include the
27 prescription number, the name of the pharmacy issuing the copy, the

1 date the copy was issued, and the number of authorized refills
2 remaining available to the patient.

3 (c) The pharmacist receiving a written or oral copy of the
4 prescription shall exercise reasonable diligence to determine
5 whether it is a valid copy, and having done so may treat the copy
6 as an original prescription.

7 (d) Except as described in this part, all other copies
8 furnished shall be used for information purposes only and clearly
9 marked "for informational or reference purposes only".

10 (4) SUBSECTION (3) DOES NOT APPLY TO LICENSED PHARMACIES THAT
11 SHARE A REAL-TIME, ON-LINE DATABASE AND TRANSFER PRESCRIPTIONS
12 PURSUANT TO A WRITTEN CONTRACT FOR CENTRALIZED PRESCRIPTION
13 PROCESSING SERVICES AS PROVIDED UNDER SECTION 17753.

14 SEC. 17753. (1) A LICENSED PHARMACY MAY PERFORM CENTRALIZED
15 PRESCRIPTION PROCESSING SERVICES OR OUTSOURCE THOSE SERVICES TO
16 ANOTHER LICENSED PHARMACY IF EACH OF THE FOLLOWING CONDITIONS ARE
17 SATISFIED:

18 (A) THE PHARMACIES HAVE THE SAME OWNER OR HAVE A WRITTEN
19 CONTRACT OUTLINING THE SERVICES TO BE PROVIDED AND THE
20 RESPONSIBILITIES AND ACCOUNTABILITIES OF EACH PHARMACY IN
21 FULFILLING THE TERMS OF THE CONTRACT IN COMPLIANCE WITH FEDERAL AND
22 STATE LAWS AND REGULATIONS.

23 (B) THE PHARMACIES SHARE A COMMON ELECTRONIC FILE OR HAVE
24 APPROPRIATE TECHNOLOGY TO ALLOW ACCESS TO SUFFICIENT INFORMATION
25 NECESSARY OR REQUIRED TO PREPARE A PRESCRIPTION DRUG ORDER.

26 (2) A LICENSED PHARMACY THAT PERFORMS, OR CONTRACTS FOR,
27 CENTRALIZED PRESCRIPTION PROCESSING SERVICES SHALL MAINTAIN A

1 POLICY AND PROCEDURES MANUAL, ALONG WITH DOCUMENTATION THAT
2 IMPLEMENTATION IS OCCURRING, AND EACH SHALL BE MADE AVAILABLE TO
3 THE BOARD FOR INSPECTION AND REVIEW UPON REQUEST AND THE MANUAL
4 SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:

5 (A) A DESCRIPTION OF HOW THE PHARMACIES WILL COMPLY WITH
6 FEDERAL AND STATE LAWS AND REGULATIONS.

7 (B) THE MAINTENANCE OF APPROPRIATE RECORDS TO IDENTIFY THE
8 RESPONSIBLE PHARMACIST, OR PHARMACISTS, IN THE VARIOUS STAGES OF
9 THE DRUG PRODUCT PREPARATION, DISPENSING, AND COUNSELING PROCESS.

10 (C) THE MAINTENANCE OF A MECHANISM FOR TRACKING THE
11 PRESCRIPTION DRUG ORDER DURING EACH STEP IN THE DRUG PRODUCT
12 PREPARATION, DISPENSING, AND COUNSELING PROCESS.

13 (D) THE MAINTENANCE OF A MECHANISM TO IDENTIFY ON THE
14 PRESCRIPTION LABEL EACH PHARMACY INVOLVED IN THE PREPARATION AND
15 DISPENSING OF THE PRESCRIPTION DRUG ORDER.

16 (E) THE PROVISION OF ADEQUATE SECURITY TO PROTECT THE
17 CONFIDENTIALITY AND INTEGRITY OF A PATIENT'S PROTECTED HEALTH
18 INFORMATION.

19 (F) THE MAINTENANCE OF A QUALITY IMPROVEMENT PROGRAM FOR
20 PHARMACY SERVICES DESIGNED TO OBJECTIVELY AND SYSTEMATICALLY
21 MONITOR AND EVALUATE THE QUALITY AND APPROPRIATENESS OF PATIENT
22 CARE, PURSUE OPPORTUNITIES TO IMPROVE PATIENT CARE, AND RESOLVE
23 IDENTIFIED PROBLEMS.

24 (3) IN ADDITION TO THE CONTENTS REQUIRED UNDER SECTION 17756,
25 EACH PRESCRIPTION DRUG DISPENSED TO A PATIENT UTILIZING A
26 CENTRALIZED PRESCRIPTION PROCESSING SYSTEM SHALL BEAR A LABEL
27 CONTAINING AN IDENTIFIABLE CODE THAT PROVIDES A COMPLETE AUDIT

1 TRAIL OF THE PREPARATION AND DISPENSING OF THE DRUG AND PATIENT
2 CARE ACTIVITIES.

3 (4) AS USED IN THIS SECTION, "CENTRALIZED PRESCRIPTION
4 PROCESSING" MEANS THE PROCESSING BY A PHARMACY OF A REQUEST FROM
5 ANOTHER PHARMACY TO PREPARE A PRESCRIPTION DRUG ORDER OR TO PERFORM
6 PROCESSING FUNCTIONS SUCH AS DISPENSING, PERFORMING DRUG
7 UTILIZATION REVIEW, COMPLETING CLAIMS ADJUDICATION, OBTAINING
8 REFILL AUTHORIZATIONS, AND INITIATING THERAPEUTIC INTERVENTIONS.

9 Sec. 17763. In addition to the grounds set forth in part 161,
10 the disciplinary subcommittee may fine, reprimand, or place a
11 pharmacist licensee on probation, or deny, limit, suspend, or
12 revoke the license of a pharmacist or order restitution or
13 community service for a violation or abetting in a violation of
14 this part or rules promulgated under this part, or for 1 or more of
15 the following grounds:

16 ~~—(a) Employing the mail to sell, distribute, or deliver a drug~~
17 ~~that requires a prescription when the prescription for the drug is~~
18 ~~received by mail.~~

19 (A) ~~—(b)~~ Permitting the dispensing of prescriptions by an
20 individual who is not a pharmacist, pharmacist intern, or
21 dispensing prescriber.

22 (B) ~~—(e)~~ Permitting the dispensing of prescriptions by a
23 pharmacist intern, except in the presence and under the personal
24 charge of a pharmacist.

25 (C) ~~—(d)~~ Selling at auction drugs in bulk or in open packages
26 unless the sale has been approved in accordance with rules of the
27 board.

1 (D) ~~-(e)-~~ Promoting a prescription drug to the public in any
2 manner.

3 (E) ~~-(f)-~~ In addition to the prohibition contained in section
4 7405(1)(e), dispensing a prescription for a controlled substance as
5 defined in section 7104 that is written and signed or transmitted
6 by a physician prescriber in a state other than Michigan, unless
7 the prescription is issued by a physician prescriber who resides
8 adjacent to the land border between this state and an adjoining
9 state or resides in Illinois or Minnesota and who is authorized
10 under the laws of that state to practice medicine or osteopathic
11 medicine and surgery and to prescribe controlled substances and
12 whose practice may extend into this state, but who does not
13 maintain an office or designate a place to meet patients or receive
14 calls in this state.