

# HOUSE BILL No. 5164

June 25, 2009, Introduced by Reps. Lisa Brown, Warren, Liss, Bledsoe, Smith, Valentine, Byrnes, Miller, Donigan, Roberts, Slavens, Lipton, Hammel, Switalski, Barnett, Kennedy, Bauer, Tlaib, Robert Jones, Geiss, Gonzales, Haugh, Coulouris and Meadows and referred to the Committee on Judiciary.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 17751 and 17763 (MCL 333.17751 and 333.17763), as amended by 2006 PA 672.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

6           (2) A pharmacist may dispense a prescription written and  
7 signed or transmitted by facsimile, electronic transmission, or  
8 other means of communication by a physician prescriber in a state  
9 other than Michigan, but not including a prescription for a  
10 controlled substance as defined in section 7104 except under

1 circumstances described in section 17763(e), only if the pharmacist  
2 in the exercise of his or her professional judgment determines all  
3 of the following:

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

6 (b) That the prescription is authentic.

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

9 (3) A pharmacist or a prescriber shall dispense a prescription  
10 only if the prescription falls within the scope of practice of the  
11 prescriber.

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

14 **(5) A PHARMACIST SHALL NOT REFUSE TO DISPENSE OR TRANSFER A**  
15 **PRESCRIPTION BASED SOLELY ON HIS OR HER ETHICAL, MORAL, OR**  
16 **RELIGIOUS BELIEFS.**

17 Sec. 17763. In addition to the grounds set forth in part 161,  
18 the disciplinary subcommittee may fine, reprimand, or place a  
19 pharmacist licensee on probation, or deny, limit, suspend, or  
20 revoke the license of a pharmacist or order restitution or  
21 community service for a violation or abetting in a violation of  
22 this part or rules promulgated under this part, or for 1 or more of  
23 the following grounds:

24 (a) Permitting the dispensing of prescriptions by an  
25 individual who is not a pharmacist, pharmacist intern, or  
26 dispensing prescriber.

27 (b) Permitting the dispensing of prescriptions by a pharmacist

1 intern, except in the presence and under the personal charge of a  
2 pharmacist.

3 (c) Selling at auction drugs in bulk or in open packages  
4 unless the sale has been approved in accordance with rules of the  
5 board.

6 (d) Promoting a prescription drug to the public in any manner.

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

20 (F) REFUSING TO DISPENSE OR TRANSFER A PRESCRIPTION BASED  
21 SOLELY ON HIS OR HER ETHICAL, MORAL, OR RELIGIOUS BELIEFS.