

Act No. 49
Public Acts of 2016
Approved by the Governor
March 15, 2016
Filed with the Secretary of State
March 15, 2016
EFFECTIVE DATE: June 13, 2016

**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Reps. McBroom, Crawford and Vaupel

ENROLLED HOUSE BILL No. 4999

AN ACT to amend 1978 PA 368, entitled "An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates," by amending sections 7405, 16192, 16201, 16349, 17708, 17751, and 17763 (MCL 333.7405, 333.16192, 333.16201, 333.16349, 333.17708, 333.17751, and 333.17763), sections 7405, 17708, and 17763 as amended by 2012 PA 209, section 16192 as amended by 2013 PA 268, section 16201 as amended by 1988 PA 462, section 16349 as added by 1993 PA 79, and section 17751 as amended by 2014 PA 525.

The People of the State of Michigan enact:

Sec. 7405. (1) A person shall not do any of the following:

(a) If the person is licensed by the administrator under this article, distribute, prescribe, or dispense a controlled substance in violation of section 7333.

(b) If the person is a licensee, manufacture a controlled substance not authorized by his or her license or distribute, prescribe, or dispense a controlled substance not authorized by his or her license to another licensee or other authorized person, except as authorized by rules promulgated by the administrator.

(c) Refuse an entry into any premises for an inspection authorized by this article.

(d) Knowingly keep or maintain a store, shop, warehouse, dwelling, building, vehicle, boat, aircraft, or other structure or place that is frequented by persons using controlled substances in violation of this article for the purpose of using controlled substances or that is used for keeping or selling controlled substances in violation of this article.

(e) If the person is a practitioner, dispense a controlled substance under a prescription written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a physician prescriber, dentist prescriber, or veterinarian prescriber licensed to practice in another

state, unless the prescription is issued by a physician prescriber, dentist prescriber, or veterinarian prescriber who is authorized under the laws of that state to practice dentistry, medicine, osteopathic medicine and surgery, or veterinary medicine and to prescribe controlled substances.

(2) A person who violates subsection (1) is subject to the penalties prescribed in section 7406.

Sec. 16192. (1) A licensee or registrant shall report to the department a change in name, mailing address, or electronic mail address if the licensee or registrant has provided an electronic mail address under subsection (4), not later than 30 days after the change occurs.

(2) The department may serve a notice of hearing or a complaint on an applicant, licensee, or registrant in an action or proceeding for a violation of this article, article 7, or article 8 or a rule promulgated under this article, article 7, or article 8 by regular mail and by certified mail, return receipt requested, to the applicant's, licensee's, or registrant's last known address, by serving the notice on the applicant, licensee, or registrant, or by making a reasonable attempt to serve the notice on the applicant, licensee, or registrant. For purposes of this subsection, if service is by mail, service is effective 3 days after the date of mailing, and nondelivery does not affect the validity of the service if the nondelivery was caused by the refusal of the applicant, licensee, or registrant to accept service.

(3) A license or registration is not transferable.

(4) If the department is required or permitted under this article to deliver or serve a notice or other communication to a licensee or registrant by mail, the department may deliver or serve the notice or communication by electronic mail rather than by first-class mail if the licensee or registrant has provided an electronic mail address to the department; authorized the department in writing to deliver or serve notices and communications to the licensee or registrant at the electronic mail address; and agreed in writing that the licensee or registrant consents to the service of any notice or communication sent to the electronic mail address that the department would otherwise serve by mail.

Sec. 16201. (1) A licensee or registrant shall renew the license or registration on or before the expiration date as prescribed by rule. The department shall mail a notice to the licensee or registrant at the last known address on file with a board, or may send the notice by electronic mail to a licensee or registrant described in section 16192(4), advising of the time, procedure, and fee for renewal. Failure of the licensee or registrant to receive notice under this subsection does not relieve the licensee or registrant of the responsibility for renewing his or her license or registration.

(2) A license or registration not renewed by the expiration date may be renewed within 60 days after the expiration date on application, payment of renewal and late renewal fees, and fulfillment of any continued competency or continuing education requirements set forth in this article or rules promulgated under this article. The licensee or registrant may continue to practice and use the title during the 60-day time period.

(3) If a license or registration is not renewed within 60 days after the expiration date under subsection (2), the license or registration is considered null and void. The licensee shall not practice or use the title and a registrant shall not use the title. Except as otherwise provided by rule, a person may be relicensed or reregistered within 3 years after the expiration date on application, payment of the application processing, renewal, and late renewal fees, and fulfillment of any continued competency or continuing education requirements in effect on the expiration date, or that would have been required had the individual renewed his or her license or registration under subsection (1). A temporary license or registration may be issued under section 16181 pending the results of action taken under this subsection.

(4) Except as otherwise provided in this article or by rule, a person may be relicensed or reregistered more than 3 years after the expiration date on application as a new applicant, meeting all licensure or registration requirements in effect at the time of application, taking or retaking and passing any examinations required for initial licensure or registration, and payment of fees required of new applicants.

(5) The expiration or surrender of a license or registration does not terminate the board's authority to impose sanctions on the licensee or registrant whose license or registration has expired or been surrendered.

Sec. 16349. Fees for a person licensed or seeking licensure to engage in the practice of veterinary medicine or licensed or seeking licensure to practice as a veterinary technician under part 188 are as follows:

(a) Application processing fees:

(i) Veterinarian..... \$ 25.00
(ii) Veterinary technician..... 15.00

(b) Examination fees:

(i) Veterinary technician, complete..... 130.00
(ii) Veterinary technician, per part..... 65.00

(c) License fees, per year:

(i) Veterinarian..... 70.00
(ii) Veterinary technician..... 40.00

(d) Temporary license fees:	
(i) Veterinarian.....	25.00
(ii) Veterinary technician.....	10.00
(e) Limited licenses, per year:	
(i) Veterinarian.....	25.00
(ii) Veterinary technician.....	10.00
(f) Examination review.....	20.00

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

(2) “Prescriber” means a licensed dentist, a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, a licensed doctor of podiatric medicine and surgery, a licensed optometrist certified under part 174 to administer and prescribe therapeutic pharmaceutical agents, a licensed veterinarian, or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or licensed doctor of osteopathic medicine and surgery.

(3) “Prescription” means an order by a prescriber to fill, compound, or dispense a drug or device written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication. An order transmitted in other than written or hard-copy form must be electronically recorded, printed, or written and immediately dated by the pharmacist, and that record constitutes the original prescription. In a health facility or agency licensed under article 17 or other medical institution, an order for a drug or device in the patient’s chart constitutes for the purposes of this definition the original prescription. Subject to section 17751(2) and (5), prescription includes, but is not limited to, an order for a drug, not including a controlled substance as defined in section 7104 except under circumstances described in section 17763(e), written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a physician prescriber, dentist prescriber, or veterinarian prescriber licensed to practice dentistry, medicine, osteopathic medicine and surgery, or veterinary medicine in another state.

(4) “Prescription drug” means a drug to which 1 or more of the following apply:

- (a) The drug is dispensed pursuant to a prescription.
- (b) The drug bears the federal legend “CAUTION: federal law prohibits dispensing without prescription” or “Rx only”.
- (c) The drug is designated by the board as a drug that may only be dispensed pursuant to a prescription.

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

(2) Subject to subsection (5), a pharmacist may dispense a prescription written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a physician prescriber, dentist prescriber, or veterinarian prescriber in another state, but not including a prescription for a controlled substance as defined in section 7104 except under circumstances described in section 17763(e), only if the pharmacist in the exercise of his or her professional judgment determines all of the following:

- (a) Except as otherwise authorized under section 5110, 17744a, or 17744b, if the prescriber is a physician or dentist, that the prescription was issued pursuant to an existing physician-patient or dentist-patient relationship.
- (b) That the prescription is authentic.
- (c) That the prescribed drug is appropriate and necessary for the treatment of an acute, chronic, or recurrent condition.

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

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

(5) A pharmacist shall not dispense a drug or device under a prescription transmitted by facsimile or created in electronic format and printed out for use by the patient unless the document is manually signed by the prescriber. This subsection does not apply to a prescription that is transmitted by a computer to a facsimile machine if that prescription complies with section 17754.

(6) After consultation with and agreement from the prescriber, a pharmacist may add or change a patient’s address, dosage form, drug strength, drug quantity, directions for use, or issue date with regard to a prescription. A pharmacist shall note the details of the consultation and agreement required under this subsection on the prescription and shall maintain that documentation with the prescription as required in section 17752. A pharmacist shall not change the patient’s name, controlled substance prescribed unless authorized to dispense a lower cost generically equivalent drug product under section 17755, or the prescriber’s signature with regard to a prescription.

(7) A prescription that is contained within a patient's chart in a health facility or agency licensed under article 17 or other medical institution and that is transmitted to a pharmacy under section 17744 is the original prescription. If all other requirements of this part are met, a pharmacist shall dispense a drug or device under a prescription described in this subsection. A pharmacist may dispense a drug or device under a prescription described in this subsection even if the prescription does not contain the quantity ordered. If a prescription described in this subsection does not contain the quantity ordered, the pharmacist shall consult with the prescriber to determine an agreed-upon quantity. The pharmacist shall record the quantity dispensed on the prescription and shall maintain that documentation with the prescription as required in section 17752.

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

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

(b) Permitting the dispensing of prescriptions by a pharmacist intern, except in the presence and under the personal charge of a pharmacist.

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

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

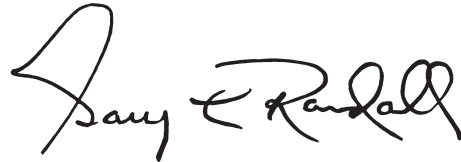
(e) In addition to the prohibition contained in section 7405(1)(e), dispensing a prescription for a controlled substance as defined in section 7104 that is written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a physician prescriber, dentist prescriber, or veterinarian prescriber in another state, unless the prescription is issued by a physician prescriber, dentist prescriber, or veterinarian prescriber who is authorized under the laws of that state to practice dentistry, medicine, osteopathic medicine and surgery, or veterinary medicine and to prescribe controlled substances.

Enacting section 1. Section 16349 of the public health code, 1978 PA 368, MCL 333.16349, as amended by this amendatory act, applies to licensing fees required to be paid after December 31, 2018.

Enacting section 2. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 3. This amendatory act does not take effect unless House Bill No. 4408 of the 98th Legislature is enacted into law.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor