

SENATE BILL No. 831

February 20, 2018, Introduced by Senators WARREN and HERTEL and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 17751a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 17751A. (1) SUBJECT TO THIS SECTION, SECTION 17751, AND
2 SECTION 17755, IF AN INDIVIDUAL REQUESTS A CONTRACEPTIVE THAT IS IN
3 STOCK IN A PHARMACY, THE PHARMACY SHALL ENSURE THAT THE
4 CONTRACEPTIVE IS PROVIDED TO THE INDIVIDUAL WITHOUT DELAY. SUBJECT
5 TO THIS SECTION, SECTION 17751, AND SECTION 17755, IF AN INDIVIDUAL
6 REQUESTS A CONTRACEPTIVE THAT IS NOT IN STOCK IN THE PHARMACY, THE
7 PHARMACY SHALL ENSURE THAT THE INDIVIDUAL IS IMMEDIATELY INFORMED
8 THAT THE CONTRACEPTIVE IS NOT IN STOCK AND IS OFFERED THE FOLLOWING
9 OPTIONS WITHOUT DELAY:

1 (A) IF THE INDIVIDUAL PREFERS TO OBTAIN THE CONTRACEPTIVE
2 THROUGH A REFERRAL OR TRANSFER, A PHARMACIST SHALL LOCATE A
3 PHARMACY OF THE INDIVIDUAL'S CHOICE OR THE CLOSEST PHARMACY THAT
4 HAS THE CONTRACEPTIVE IN STOCK AND REFER THE INDIVIDUAL OR TRANSFER
5 THE PRESCRIPTION TO THAT PHARMACY IN A MANNER PERMITTED BY LAW.

6 (B) IF THE INDIVIDUAL PREFERS FOR THE PHARMACY TO ORDER THE
7 CONTRACEPTIVE, A PHARMACIST SHALL OBTAIN THE CONTRACEPTIVE UNDER
8 THE PHARMACY'S STANDARD PROCEDURES FOR EXPEDITED ORDERING OF DRUGS
9 AND NOTIFY THE CUSTOMER WHEN THE CONTRACEPTIVE ARRIVES.

10 (2) A PHARMACY SHALL ENSURE THAT ANY INDIVIDUAL EMPLOYED BY
11 THE PHARMACY DOES NOT DO ANY OF THE FOLLOWING:

12 (A) INTIMIDATE, THREATEN, OR HARASS AN INDIVIDUAL IN THE
13 DELIVERY OF SERVICES RELATING TO A REQUEST FOR CONTRACEPTION.

14 (B) INTERFERE WITH OR OBSTRUCT THE DELIVERY OF SERVICES
15 RELATING TO A REQUEST FOR CONTRACEPTION.

16 (C) INTENTIONALLY MISREPRESENT OR DECEIVE AN INDIVIDUAL ABOUT
17 THE AVAILABILITY OF CONTRACEPTION OR ITS MECHANISM OF ACTION.

18 (D) BREACH MEDICAL CONFIDENTIALITY WITH RESPECT TO A REQUEST
19 FOR CONTRACEPTION OR THREATEN TO BREACH THAT CONFIDENTIALITY.

20 (E) UPON THE INDIVIDUAL'S REQUEST, REFUSE TO RETURN TO THE
21 INDIVIDUAL AN UNFILLED VALID PRESCRIPTION FOR CONTRACEPTION.

22 (3) THIS SECTION DOES NOT PROHIBIT A PHARMACY FROM REFUSING TO
23 PROVIDE A CONTRACEPTIVE TO AN INDIVIDUAL IF 1 OR MORE OF THE
24 FOLLOWING CIRCUMSTANCES OCCUR:

25 (A) IT IS UNLAWFUL TO DISPENSE THE CONTRACEPTIVE TO THE
26 INDIVIDUAL WITHOUT A VALID PRESCRIPTION AND THE INDIVIDUAL DOES NOT
27 PRESENT A VALID PRESCRIPTION.

1 (B) THE INDIVIDUAL IS UNABLE TO PAY FOR THE CONTRACEPTIVE.

2 (C) A PHARMACIST WHO IS EMPLOYED BY THE PHARMACY REFUSES TO
3 PROVIDE THE CONTRACEPTIVE BASED ON HIS OR HER PROFESSIONAL CLINICAL
4 JUDGMENT.

5 (4) A PHARMACY SHALL ENSURE THAT OVER-THE-COUNTER EMERGENCY
6 CONTRACEPTION IS STOCKED AND MADE AVAILABLE FOR PURCHASE WITHOUT A
7 PRESCRIPTION IN ACCORDANCE WITH FOOD AND DRUG ADMINISTRATION
8 PROTOCOL.

9 (5) AN INDIVIDUAL AGGRIEVED AS A RESULT OF A VIOLATION OF THIS
10 SECTION MAY COMMENCE A CIVIL ACTION AGAINST THE PHARMACY INVOLVED
11 TO OBTAIN APPROPRIATE RELIEF, INCLUDING ACTUAL AND PUNITIVE
12 DAMAGES, INJUNCTIVE RELIEF, AND REASONABLE ATTORNEY FEES AND COSTS.

13 (6) AS USED IN THIS SECTION:

14 (A) "CONTRACEPTION" OR "CONTRACEPTIVE" MEANS A PRODUCT TO
15 PREVENT PREGNANCY.

16 (B) "EMERGENCY CONTRACEPTION" MEANS 1 OR MORE DRUGS, USED
17 SEPARATELY OR IN COMBINATION WITH ONE ANOTHER, TO PREVENT PREGNANCY
18 WITHIN A MEDICALLY RECOMMENDED AMOUNT OF TIME AFTER SEXUAL
19 INTERCOURSE.

20 (C) "PRODUCT" MEANS A DRUG OR DEVICE THAT IS APPROVED BY THE
21 FOOD AND DRUG ADMINISTRATION.

22 (D) "PROFESSIONAL CLINICAL JUDGMENT" MEANS THE USE OF
23 PROFESSIONAL KNOWLEDGE AND SKILL TO FORM A CLINICAL JUDGMENT IN
24 ACCORDANCE WITH PREVAILING MEDICAL STANDARDS.

25 (E) "WITHOUT DELAY" MEANS WITHIN THE USUAL AND CUSTOMARY TIME
26 FRAME AT THE PHARMACY FOR DISPENSING, PROVIDING A REFERRAL FOR, OR
27 ORDERING A PRODUCT, OR TRANSFERRING A PRESCRIPTION FOR A PRODUCT,

1 **RESPECTIVELY.**

2 Enacting section 1. This amendatory act takes effect 90 days
3 after the date it is enacted into law.