

HOUSE BILL No. 4282

February 15, 2005, Introduced by Reps. Shaffer, Pearce, Green, Schuitmaker, Stahl, Hune, Sheen, Bieda, Tobocman, Baxter, Nofs, Wojno, Vander Veen and Jones and referred to the Committee on Senior Health, Security, and Retirement.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 17766 (MCL 333.17766), as amended by 2004 PA 329, and by adding section 17766e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17766. Except as provided in section 17766d **OR 17766E**, a
2 person who does any of the following is guilty of a misdemeanor:

3 (a) Obtains or attempts to obtain a prescription drug by
4 giving a false name to a pharmacist or other authorized seller,
5 prescriber, or dispenser.

6 (b) Obtains or attempts to obtain a prescription drug by
7 falsely representing that he or she is a lawful prescriber,

1 dispenser, or licensee, or acting on behalf of a lawful prescriber,
2 dispenser, or licensee.

3 (c) Falsely makes, utters, publishes, passes, alters, or
4 forges a prescription.

5 (d) Knowingly possesses a false, forged, or altered
6 prescription.

7 (e) Knowingly attempts to obtain, obtains, or possesses a drug
8 by means of a prescription for other than a legitimate therapeutic
9 purpose, or as a result of a false, forged, or altered
10 prescription.

11 (f) Possesses or controls for the purpose of resale, or sells,
12 offers to sell, dispenses, or gives away, a drug, pharmaceutical
13 preparation, or chemical that has been dispensed on prescription
14 and has left the control of a pharmacist.

15 (g) Possesses or controls for the purpose of resale, or sells,
16 offers to sell, dispenses, or gives away, a drug, pharmaceutical
17 preparation, or chemical that has been damaged by heat, smoke,
18 fire, water, or other cause and is unfit for human or animal use.

19 (h) Prepares or permits the preparation of a prescription
20 drug, except as delegated by a pharmacist.

21 (i) Sells a drug in bulk or in an open package at auction,
22 unless the sale has been approved in accordance with rules of the
23 board.

24 **SEC. 17766E. (1) NOTWITHSTANDING SECTION 17766(F), A PHARMACY**
25 **MAY ACCEPT AND UTILIZE UNUSED PRESCRIPTION DRUGS AS PROVIDED UNDER**
26 **THIS SECTION. THE BOARD MAY PROMULGATE RULES AND ESTABLISH**
27 **PROCEDURES TO IMPLEMENT THIS SECTION AND PROVIDE FOR THE ACCEPTANCE**

1 AND UTILIZATION OF UNUSED PRESCRIPTION DRUGS.

2 (2) A NURSING HOME, COUNTY MEDICAL CARE FACILITY, HOME FOR THE
3 AGED, OR HOSPICE RESIDENCE MAY RETURN UNUSED PRESCRIPTION DRUGS TO
4 A PHARMACY OPERATED BY, OR UNDER CONTRACT WITH, A COUNTY OR THIS
5 STATE FOR THE PURPOSE OF DISTRIBUTING THE UNUSED PRESCRIPTION DRUGS
6 TO RESIDENTS OF THIS STATE WHO ARE MEDICALLY INDIGENT INDIVIDUALS.
7 A PHARMACY SHALL UTILIZE THE FOLLOWING CRITERIA IN ACCEPTING UNUSED
8 PRESCRIPTION DRUGS UNDER THIS SECTION:

9 (A) ONLY PRESCRIPTION DRUGS IN THEIR ORIGINAL UNIT DOSE
10 PACKAGE OR UNIT OF ISSUE PACKAGE OR UNUSED INJECTABLES SHALL BE
11 ACCEPTED AND DISPENSED UNDER THIS SECTION.

12 (B) EXPIRED PRESCRIPTION DRUGS SHALL NOT BE ACCEPTED.

13 (C) CONTROLLED SUBSTANCES SHALL NOT BE ACCEPTED.

14 (D) IF THE PERSON ACCEPTING OR DISPENSING THE PRESCRIPTION
15 DRUG HAS REASON TO BELIEVE THAT THE DRUG HAS BEEN ADULTERATED OR
16 DEFACED, THE PRESCRIPTION DRUG SHALL NOT BE ACCEPTED OR DISPENSED.

17 (3) A PHARMACY THAT ACCEPTS AND DISPENSES PRESCRIPTION DRUGS
18 UNDER THIS SECTION SHALL SATISFY EACH OF THE FOLLOWING:

19 (A) COMPLY WITH ALL APPLICABLE FEDERAL AND STATE LAWS,
20 REGULATIONS, AND RULES RELATED TO THE STORAGE AND DISTRIBUTION OF
21 PRESCRIPTION DRUGS.

22 (B) INSPECT ALL PRESCRIPTION DRUGS PRIOR TO DISPENSING THE
23 PRESCRIPTION DRUGS TO DETERMINE THAT THOSE DRUGS ARE NOT ALTERED OR
24 DEFACED.

25 (C) DISPENSE A PRESCRIPTION DRUG UNDER THE AUTHORITY OF AN
26 ORIGINAL PRESCRIPTION OR AN EQUIVALENT RECORD OF AN ORIGINAL
27 PRESCRIPTION AS APPROVED BY THE BOARD.

1 (D) DISPENSE A PRESCRIPTION DRUG TO RESIDENTS OF THIS STATE
2 WHO ARE MEDICALLY INDIGENT INDIVIDUALS.

3 (4) A PRESCRIPTION DRUG RETURNED UNDER THIS SECTION SHALL NOT
4 BE RESOLD. A PHARMACY THAT ACCEPTS AND DISPENSES PRESCRIPTION DRUGS
5 UNDER THIS SECTION MAY CHARGE INDIVIDUALS RECEIVING PRESCRIPTION
6 DRUGS RETURNED UNDER THIS SECTION A HANDLING FEE AS ESTABLISHED BY
7 THE BOARD.

8 (5) IN THE ABSENCE OF BAD FAITH, WILLFUL AND WANTON
9 MISCONDUCT, OR GROSS NEGLIGENCE, A PERSON WHO RETURNS, ACCEPTS, OR
10 DISPENSES PRESCRIPTION DRUGS IN ACCORDANCE WITH THIS SECTION IS
11 IMMUNE FROM CRIMINAL OR CIVIL LIABILITY.

12 (6) AS USED IN THIS SECTION:

13 (A) "MEDICALLY INDIGENT INDIVIDUAL" MEANS THAT TERM AS DEFINED
14 UNDER SECTION 106 OF THE SOCIAL WELFARE ACT, 1939 PA 280, MCL
15 400.106.

16 (B) "NURSING HOME", "COUNTY MEDICAL CARE FACILITY", "HOME FOR
17 THE AGED", AND "HOSPICE" MEAN THOSE TERMS AS DEFINED UNDER ARTICLE
18 17.

19 (C) "UNIT DOSE PACKAGE" MEANS THAT TERM AS DEFINED UNDER
20 SECTION 17766D.

21 (D) "UNIT OF ISSUE PACKAGE" MEANS THAT TERM AS DEFINED UNDER
22 SECTION 17766D.