

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4217**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 17754 (MCL 333.17754), as amended by 2014 PA
525, and by adding section 17754a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17754. (1) Except as otherwise provided under article 7,
2 article 8, and the federal act, a prescription may be transmitted
3 electronically if the prescription is transmitted in compliance
4 with the health insurance portability and accountability act of
5 1996, Public Law 104-191, or regulations promulgated under that
6 act, 45 CFR parts 160 and 164, by a prescriber or his or her agent
7 and the data are not altered or modified in the transmission
8 process. The electronically transmitted prescription ~~shall~~**must**



1 include all of the following information:

2 (a) The name, address, and telephone number of the prescriber.

3 (b) Except as otherwise authorized under section 5110, 17744a,
4 or 17744b, the full name of the patient for whom the prescription
5 is issued.

6 (c) An electronic signature or other identifier that
7 specifically identifies and authenticates the prescriber or his or
8 her agent.

9 (d) The time and date of the transmission.

10 (e) The identity of the pharmacy intended to receive the
11 transmission.

12 (f) Any other information required by the federal act or state
13 law.

14 (2) The electronic equipment or system utilized in the
15 transmission and communication of prescriptions ~~shall~~**must** provide
16 adequate confidentiality safeguards and be maintained to protect
17 patient confidentiality as required under any applicable federal
18 and state law and to ensure against unauthorized access. The
19 electronic transmission of a prescription ~~shall~~**must** be
20 communicated in a retrievable, recognizable form acceptable to the
21 intended recipient. The electronic form utilized in the
22 transmission of a prescription ~~shall~~**must** not include "dispense as
23 written" or "d.a.w." as the default setting.

24 (3) Before dispensing a prescription that is electronically
25 transmitted, the pharmacist shall exercise professional judgment
26 regarding the accuracy, validity, and authenticity of the
27 transmitted prescription.

28 (4) An electronically transmitted prescription that meets the
29 requirements of this section is the original prescription.



1 (5) This section does not apply beginning on the date on which
2 section 17754a applies.

3 Sec. 17754a. (1) Except as otherwise provided under article 8,
4 the federal act, or subsection (5), and subject to subsection (10),
5 beginning January 1, 2021, a prescriber or his or her agent shall
6 electronically transmit a prescription, including a prescription
7 for a controlled substance, directly to a pharmacy of the patient's
8 choice. A prescription that is transmitted electronically under
9 this section must be in compliance with the health insurance
10 portability and accountability act of 1996, Public Law 104-191, or
11 regulations promulgated under that act, 45 CFR parts 160 and 164,
12 and the data must not be altered or modified in the transmission
13 process. The electronically transmitted prescription must include
14 all of the following information:

15 (a) The name, address, and telephone number of the prescriber.

16 (b) Except as otherwise authorized under section 5110, 17744a,
17 or 17744b, the full name of the patient for whom the prescription
18 is issued.

19 (c) An electronic signature or other identifier that
20 specifically identifies and authenticates the prescriber or his or
21 her agent.

22 (d) The time and date of the transmission.

23 (e) The identity of the pharmacy intended to receive the
24 transmission.

25 (f) Any other information required by the federal act or state
26 law.

27 (2) The electronic equipment or system utilized in the
28 transmission and communication of prescriptions under this section
29 must provide adequate confidentiality safeguards and be maintained



1 to protect patient confidentiality as required under any applicable
2 federal and state law and to ensure against unauthorized access.
3 The electronic transmission of a prescription under this section
4 must be communicated in a retrievable, recognizable form acceptable
5 to the intended recipient. The electronic form utilized in the
6 transmission of a prescription must not include "dispense as
7 written" or "d.a.w." as the default setting.

8 (3) Before dispensing a prescription that is electronically
9 transmitted under this section, the pharmacist shall exercise
10 professional judgment regarding the accuracy, validity, and
11 authenticity of the transmitted prescription.

12 (4) An electronically transmitted prescription that meets the
13 requirements of this section is the original prescription.

14 (5) The requirement to transmit a prescription electronically
15 under subsection (1) does not apply under any of the following
16 circumstances:

17 (a) If the prescription is issued by a prescriber who is a
18 veterinarian licensed under this article.

19 (b) If the prescription is issued under a circumstance in
20 which electronic transmission is not available due to a temporary
21 technological or electrical failure.

22 (c) If the prescription is issued by a prescriber who has
23 received a waiver from the department under subsection (7).

24 (d) If the prescription is issued by a prescriber who
25 reasonably believes that electronically transmitting the
26 prescription would make it impractical for the patient who is the
27 subject of the prescription to obtain the prescription drug in a
28 timely manner and that the delay would adversely affect the
29 patient's medical condition. A prescriber who does not



1 electronically transmit a prescription under this subdivision shall
2 document the specific reason for his or her belief that the delay
3 would adversely affect the patient's medical condition.

4 (e) If the prescription is orally prescribed under section
5 7333(3) or (4).

6 (f) If the prescription is issued by a prescriber to be
7 dispensed outside of this state.

8 (g) If the prescription is issued by a prescriber who is
9 located outside of this state to be dispensed by a pharmacy located
10 inside of this state.

11 (h) If the prescription is issued and dispensed in the same
12 health care facility and the individual for whom the prescription
13 is issued uses the drug exclusively in the health care facility. As
14 used in this subdivision, "health care facility" includes, but is
15 not limited to, any of the following:

16 (i) A hospital.

17 (ii) A hospice.

18 (iii) A dialysis treatment clinic.

19 (iv) A freestanding surgical outpatient facility.

20 (v) A skilled nursing facility.

21 (vi) A long-term care facility that provides rehabilitative,
22 restorative, or ongoing skilled nursing care to an individual who
23 is in need of assistance with activities of daily living.

24 (i) If the prescription contains content that is not supported
25 by the National Council for Prescription Drug Programs
26 Prescriber/Pharmacist Interface SCRIPT Standard.

27 (j) If the prescription is for a drug for which the FDA
28 requires the prescription to contain content that cannot be
29 transmitted electronically.



1 (k) If the prescription is issued under circumstances in which
2 the prescriber is not required to include on the prescription a
3 name of a patient for whom the prescription is issued including,
4 but not limited to, a prescription issued under section 5110.

5 (l) If the prescription is issued by a prescriber who is
6 prescribing the drug under a research protocol.

7 (6) If a prescriber has not been granted a waiver from the
8 department under subsection (7) and the prescriber does not
9 electronically transmit a prescription under an exception described
10 in subsection (5), the prescriber shall document the applicable
11 exception and provide that documentation to the department on
12 request.

13 (7) If a prescriber cannot meet the requirements of subsection
14 (1) or (2), the prescriber may apply to the department for a waiver
15 in a form and manner required by the department. The department
16 shall establish by rule the requirements for obtaining a waiver
17 under this subsection. The rules must not establish requirements
18 that are more stringent than any requirements used by the federal
19 Centers for Medicare and Medicaid Services for waiving the Medicare
20 requirement for the electronic transmission of controlled substance
21 prescriptions. If a prescriber provides evidence satisfactory to
22 the department that the prescriber has received a waiver of the
23 Medicare requirement for the electronic transmission of controlled
24 substances prescriptions from the federal Centers for Medicare and
25 Medicaid Services, the department shall grant a waiver to the
26 prescriber under this subsection. A waiver that is granted by the
27 department under this subsection is valid for a period not to
28 exceed 2 years and is renewable.

29 (8) A pharmacist who receives a prescription that was not



1 transmitted electronically to the pharmacy may dispense the
2 prescription without determining whether an exception under
3 subsection (5) applies.

4 (9) The department, in consultation with the board, shall
5 promulgate rules to implement this section.

6 (10) If the federal Centers for Medicare and Medicaid Services
7 delays the Medicare requirement for the electronic transmission of
8 prescriptions for controlled substances beyond January 1, 2021,
9 then the department shall, by rule, delay the implementation date
10 of subsection (1) to the date established by the federal Centers
11 for Medicare and Medicaid Services for the Medicare requirement.

12 Enacting section 1. This amendatory act does not take effect
13 unless all of the following bills of the 100th Legislature are
14 enacted into law:

15 (a) Senate Bill No. 248.

16 (b) Senate Bill No. 254.

