

**SUBSTITUTE FOR
HOUSE BILL NO. 4405**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 17708, 17751, and 17763 (MCL 333.17708,
333.17751, and 333.17763), sections 17708 and 17751 as amended by
1997 PA 153 and section 17763 as amended by 2004 PA 536.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 (2) "Prescriber" means a licensed dentist, a licensed doctor
4 of medicine, a licensed doctor of osteopathic medicine and surgery,
5 a licensed doctor of podiatric medicine and surgery, a licensed
6 optometrist certified under part 174 to administer and prescribe
7 therapeutic pharmaceutical agents, a licensed veterinarian, or
8 another licensed health professional acting under the delegation
9 and using, recording, or otherwise indicating the name of the

1 delegating licensed doctor of medicine or licensed doctor of
2 osteopathic medicine and surgery.

3 (3) "Prescription" means an order for a drug or device written
4 and signed or transmitted by other means of communication by a
5 prescriber to be filled, compounded, or dispensed. Prescribing is
6 limited to a prescriber. An order transmitted in other than written
7 form shall be recorded or written and immediately dated by the
8 pharmacist, and that record constitutes the original prescription.
9 In a health facility or agency licensed under article 17 or other
10 medical institution, an order for a drug or device in the patient's
11 chart constitutes for the purposes of this definition the original
12 prescription. Subject to section 17751(2), prescription includes,
13 but is not limited to, an order for a drug, not including a
14 controlled substance as defined in section 7104 except under
15 circumstances described in section ~~17763(g)~~ **17763(E)**, written and
16 signed or transmitted by other means of communication by a
17 physician prescriber licensed to practice in a state other than
18 Michigan.

19 (4) "Prescription drug" means 1 or more of the following:

20 (a) A drug dispensed pursuant to a prescription.

21 (b) A drug bearing the federal legend "CAUTION: federal law
22 prohibits dispensing without prescription".

23 (c) A drug designated by the board as a drug that may only be
24 dispensed pursuant to a prescription.

25 Sec. 17751. (1) A pharmacist shall not dispense a drug
26 requiring a prescription under the federal act or a law of this
27 state except under authority of an original prescription or an

1 equivalent record of an original prescription approved by the
2 board.

3 (2) A pharmacist may dispense a prescription written and
4 signed or transmitted by other means of communication by a
5 physician prescriber in a state other than Michigan, but not
6 including a prescription for a controlled substance as defined in
7 section 7104 except under circumstances described in section
8 ~~17763(g)~~ **17763(E)**, only if the pharmacist in the exercise of his
9 or her professional judgment determines all of the following:

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

12 (b) That the prescription is authentic.

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

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

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

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

27 ~~(a) Employing the mail to sell, distribute, or deliver a drug~~

1 ~~that requires a prescription when the prescription for the drug is~~
2 ~~received by mail.~~

3 (A) ~~-(b)-~~ Permitting the dispensing of prescriptions by an
4 individual who is not a pharmacist, pharmacist intern, or
5 dispensing prescriber.

6 (B) ~~-(e)-~~ Permitting the dispensing of prescriptions by a
7 pharmacist intern, except in the presence and under the personal
8 charge of a pharmacist.

9 (C) ~~-(d)-~~ Selling at auction drugs in bulk or in open packages
10 unless the sale has been approved in accordance with rules of the
11 board.

12 (D) ~~-(e)-~~ Promoting a prescription drug to the public in any
13 manner.

14 (E) ~~-(f)-~~ In addition to the prohibition contained in section
15 7405(1)(e), dispensing a prescription for a controlled substance as
16 defined in section 7104 that is written and signed or transmitted
17 by a physician prescriber in a state other than Michigan, unless
18 the prescription is issued by a physician prescriber who resides
19 adjacent to the land border between this state and an adjoining
20 state or resides in Illinois or Minnesota and who is authorized
21 under the laws of that state to practice medicine or osteopathic
22 medicine and surgery and to prescribe controlled substances and
23 whose practice may extend into this state, but who does not
24 maintain an office or designate a place to meet patients or receive
25 calls in this state.

26 Enacting section 1. This amendatory act does not take effect
27 unless House Bill No. 4434 of the 93rd Legislature is enacted into

1 law.