

# SENATE BILL No. 146

February 2, 2005, Introduced by Senators BERNERO, PRUSI, JACOBS, BARCIA, JELINEK, HAMMERSTROM, PATTERSON, BROWN, HARDIMAN, SWITALSKI, OLSHOVE, SCHAUER, GEORGE, BRATER and EMERSON and referred to the Committee on Health Policy.

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.