

HOUSE BILL No. 4161

February 4, 2009, Introduced by Rep. LeBlanc and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 7405, 17708, 17751, and 17763 (MCL 333.7405,
333.17708, 333.17751, and 333.17763), as amended by 2006 PA 672.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7405. (1) A person:

2 (a) Who is licensed by the administrator under this article
3 shall not distribute, prescribe, or dispense a controlled substance
4 in violation of section 7333.

5 (b) Who is a licensee shall not manufacture a controlled
6 substance not authorized by his or her license or distribute,
7 prescribe, or dispense a controlled substance not authorized by his
8 or her license to another licensee or other authorized person,
9 except as authorized by rules promulgated by the administrator.

1 (c) Shall not refuse an entry into any premises for an
2 inspection authorized by this article.

3 (d) Shall not knowingly keep or maintain a store, shop,
4 warehouse, dwelling, building, vehicle, boat, aircraft, or other
5 structure or place, that is frequented by persons using controlled
6 substances in violation of this article for the purpose of using
7 controlled substances, or that is used for keeping or selling
8 controlled substances in violation of this article.

9 ~~—— (e) Who is a practitioner shall not dispense a prescription~~
10 ~~for a controlled substance written and signed or transmitted by~~
11 ~~facsimile, electronic transmission, or other means of communication~~
12 ~~by a physician prescriber licensed to practice in a state other~~
13 ~~than Michigan, unless the prescription is issued by a physician~~
14 ~~prescriber who resides adjacent to the land border between this~~
15 ~~state and an adjoining state or resides in Illinois or Minnesota~~
16 ~~and who is authorized under the laws of that state to practice~~
17 ~~medicine or osteopathic medicine and surgery and to prescribe~~
18 ~~controlled substances and whose practice may extend into this~~
19 ~~state, but who does not maintain an office or designate a place to~~
20 ~~meet patients or receive calls in this state.~~

21 (2) A person who violates subsection (1) is subject to the
22 penalties prescribed in section 7406.

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

25 (2) "Prescriber" means a licensed dentist, a licensed doctor
26 of medicine, a licensed doctor of osteopathic medicine and surgery,
27 a licensed doctor of podiatric medicine and surgery, a licensed

1 optometrist certified under part 174 to administer and prescribe
2 therapeutic pharmaceutical agents, a licensed veterinarian, or
3 another licensed health professional acting under the delegation
4 and using, recording, or otherwise indicating the name of the
5 delegating licensed doctor of medicine or licensed doctor of
6 osteopathic medicine and surgery.

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

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

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

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

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

3 Sec. 17751. (1) A pharmacist shall not dispense a drug
4 requiring a prescription under the federal act or a law of this
5 state except under authority of an original prescription or an
6 equivalent record of an original prescription approved by the
7 board.

8 (2) A pharmacist may dispense a prescription written and
9 signed or transmitted by facsimile, electronic transmission, or
10 other means of communication by a physician prescriber in a state
11 other than Michigan ~~, but not including a prescription for a~~
12 ~~controlled substance as defined in section 7104 except under~~
13 ~~circumstances described in section 17763(e),~~ only if the pharmacist
14 in the exercise of his or her professional judgment determines all
15 of the following:

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

18 (b) That the prescription is authentic.

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

21 (3) A pharmacist or a prescriber shall dispense a prescription
22 only if the prescription falls within the scope of practice of the
23 prescriber.

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

26 Sec. 17763. In addition to the grounds set forth in part 161,
27 the disciplinary subcommittee may fine, reprimand, or place a

1 pharmacist licensee on probation, or deny, limit, suspend, or
2 revoke the license of a pharmacist or order restitution or
3 community service for a violation or abetting in a violation of
4 this part or rules promulgated under this part, or for 1 or more of
5 the following grounds:

6 (a) Permitting the dispensing of prescriptions by an
7 individual who is not a pharmacist, pharmacist intern, or
8 dispensing prescriber.

9 (b) Permitting the dispensing of prescriptions by a pharmacist
10 intern, except in the presence and under the personal charge of a
11 pharmacist.

12 (c) Selling at auction drugs in bulk or in open packages
13 unless the sale has been approved in accordance with rules of the
14 board.

15 (d) Promoting a prescription drug to the public in any manner.

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

1 ~~meet patients or receive calls in this state.~~