

**SUBSTITUTE FOR
SENATE BILL NO. 270**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7303a (MCL 333.7303a), as amended by 2016 PA
379, and by adding section 16204e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7303a. (1) A prescriber who holds a controlled substances
2 license may administer or dispense a controlled substance listed in
3 schedules 2 to 5 without a separate controlled substances license
4 for those activities.

5 (2) **EXCEPT AS OTHERWISE PROVIDED IN RULES PROMULGATED UNDER**
6 **SECTION 16204E, BEGINNING MARCH 31, 2018, A LICENSED PRESCRIBER**
7 **SHALL NOT PRESCRIBE A CONTROLLED SUBSTANCE LISTED IN SCHEDULES 2 TO**
8 **5 UNLESS THE PRESCRIBER IS IN A BONA FIDE PRESCRIBER-PATIENT**

1 RELATIONSHIP WITH THE PATIENT FOR WHOM THE CONTROLLED SUBSTANCE IS
2 BEING PRESCRIBED. EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
3 IF A LICENSED PRESCRIBER PRESCRIBES A CONTROLLED SUBSTANCE UNDER
4 THIS SUBSECTION, THE PRESCRIBER SHALL PROVIDE FOLLOW-UP CARE TO THE
5 PATIENT TO MONITOR THE EFFICACY OF THE USE OF THE CONTROLLED
6 SUBSTANCE AS A TREATMENT OF THE PATIENT'S MEDICAL CONDITION. IF THE
7 LICENSED PRESCRIBER IS UNABLE TO PROVIDE FOLLOW-UP CARE, HE OR SHE
8 SHALL REFER THE PATIENT TO THE PATIENT'S PRIMARY CARE PROVIDER FOR
9 FOLLOW-UP CARE OR, IF THE PATIENT DOES NOT HAVE A PRIMARY CARE
10 PROVIDER, HE OR SHE SHALL REFER THE PATIENT TO ANOTHER LICENSED
11 PRESCRIBER WHO IS GEOGRAPHICALLY ACCESSIBLE TO THE PATIENT FOR
12 FOLLOW-UP CARE.

13 (3) ~~(2)~~—Before prescribing or dispensing a controlled
14 substance to a patient, a licensed prescriber shall ask the patient
15 about other controlled substances the patient may be using. The
16 prescriber shall record the patient's response in the patient's
17 medical or clinical record.

18 (4) ~~(3)~~—A licensed prescriber who dispenses controlled
19 substances shall maintain all of the following records separately
20 from other prescription records:

21 (a) All invoices and other acquisition records for each
22 controlled substance acquired by the prescriber for not less than 5
23 years after the date the prescriber acquires the controlled
24 substance.

25 (b) A log of all controlled substances dispensed by the
26 prescriber for not less than 5 years after the date the controlled
27 substance is dispensed.

1 (c) Records of all other dispositions of controlled substances
2 under the licensee's control for not less than 5 years after the
3 date of the disposition.

4 (5) ~~(4)~~—The requirement under section 7303 for a license is
5 waived in the following circumstances:

6 (a) When a controlled substance listed in schedules 2 to 5 is
7 administered on the order of a licensed prescriber by an individual
8 who is licensed under article 15 as a practical nurse or a
9 registered professional nurse.

10 (b) When methadone or a methadone congener is dispensed on the
11 order of a licensed prescriber in a methadone treatment program
12 licensed under article 6 or when a controlled substance listed in
13 schedules 2 to 5 is dispensed on the order of a licensed prescriber
14 in a hospice rendering emergency care services in a patient's home
15 as described in section 17746 by a registered professional nurse
16 licensed under article 15.

17 (6) AS USED IN THIS SECTION:

18 (A) "BONA FIDE PRESCRIBER-PATIENT RELATIONSHIP" MEANS A
19 TREATMENT OR COUNSELING RELATIONSHIP BETWEEN A PRESCRIBER AND A
20 PATIENT IN WHICH BOTH OF THE FOLLOWING ARE PRESENT:

21 (i) THE PRESCRIBER HAS REVIEWED THE PATIENT'S RELEVANT MEDICAL
22 OR CLINICAL RECORDS AND COMPLETED A FULL ASSESSMENT OF THE
23 PATIENT'S MEDICAL HISTORY AND CURRENT MEDICAL CONDITION, INCLUDING
24 A RELEVANT MEDICAL EVALUATION OF THE PATIENT CONDUCTED IN PERSON OR
25 VIA TELEHEALTH.

26 (ii) THE PRESCRIBER HAS CREATED AND MAINTAINED RECORDS OF THE
27 PATIENT'S CONDITION IN ACCORDANCE WITH MEDICALLY ACCEPTED

1 STANDARDS.

2 (B) "TELEHEALTH" MEANS THAT TERM AS DEFINED IN SECTION 16283.

3 SEC. 16204E. NOT LATER THAN 1 YEAR AFTER THE EFFECTIVE DATE OF
4 THE AMENDATORY ACT THAT ADDED THIS SECTION, THE DEPARTMENT IN
5 CONSULTATION WITH THE MICHIGAN BOARD OF MEDICINE, THE MICHIGAN
6 BOARD OF OSTEOPATHIC MEDICINE AND SURGERY, THE MICHIGAN BOARD OF
7 DENTISTRY, THE MICHIGAN BOARD OF PODIATRIC MEDICINE AND SURGERY,
8 THE MICHIGAN BOARD OF OPTOMETRY, THE MICHIGAN TASK FORCE ON
9 PHYSICIAN'S ASSISTANTS, AND THE MICHIGAN BOARD OF NURSING MAY
10 PROMULGATE RULES DESCRIBING THE CIRCUMSTANCES UNDER WHICH A BONA
11 FIDE PRESCRIBER-PATIENT RELATIONSHIP IS NOT REQUIRED FOR PURPOSES
12 OF PRESCRIBING A SCHEDULE 2 TO 5 CONTROLLED SUBSTANCE UNDER SECTION
13 7303A(2). THE RULES MAY INCLUDE AN ALTERNATIVE REQUIREMENT FOR
14 PRESCRIBING A SCHEDULE 2 TO 5 CONTROLLED SUBSTANCE WHEN A BONA FIDE
15 PRESCRIBER-PATIENT RELATIONSHIP IS NOT REQUIRED BY THE RULES
16 PROMULGATED UNDER THIS SECTION.

17 Enacting section 1. This amendatory act takes effect 90 days
18 after the date it is enacted into law.