

Act No. 101
Public Acts of 2018
Approved by the Governor
April 2, 2018
Filed with the Secretary of State
April 2, 2018
EFFECTIVE DATE: April 2, 2018

STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018

Introduced by Reps. Kahle, Maturen, LaGrand, Yanez, Lucido, McCreedy, Kesto, Canfield, Leutheuser, Sabo, Howell, Elder and LaFave

ENROLLED HOUSE BILL No. 5678

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 7303a (MCL 333.7303a), as amended by 2017 PA 249.

The People of the State of Michigan enact:

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

(2) Except as otherwise provided in rules promulgated under section 16204e, beginning March 31, 2019 or, if rules are promulgated under section 16204e before March 31, 2019, on the date on which rules are promulgated under section 16204e, a licensed prescriber shall not prescribe a controlled substance listed in schedules 2 to 5 unless the prescriber is in a bona fide prescriber-patient relationship with the patient for whom the controlled substance is being prescribed. Except as otherwise provided in this subsection, if a licensed prescriber prescribes a controlled substance under this subsection, the prescriber shall provide follow-up care to the patient to monitor the efficacy of the use of the controlled substance as a treatment of the patient’s medical condition. If the licensed prescriber is unable to provide follow-up care, he or she shall refer the patient to the patient’s primary care provider for follow-up care or, if the patient does not have a primary care provider, he or she shall refer the patient to another licensed prescriber who is geographically accessible to the patient for follow-up care.

(3) Before prescribing or dispensing a controlled substance to a patient, a licensed prescriber shall ask the patient about other controlled substances the patient may be using. The prescriber shall record the patient’s response in the patient’s medical or clinical record.

(4) Beginning June 1, 2018, before prescribing or dispensing to a patient a controlled substance in a quantity that exceeds a 3-day supply, a licensed prescriber shall obtain and review a report concerning that patient from the electronic

system for monitoring schedule 2, 3, 4, and 5 controlled substances established under section 7333a. This subsection does not apply under any of the following circumstances:

(a) If the dispensing occurs in a hospital or freestanding surgical outpatient facility licensed under article 17 and the controlled substance is administered to the patient in that hospital or facility.

(b) If the patient is an animal as that term is defined in section 18802, the dispensing occurs in a veterinary hospital or clinic and the controlled substance is administered to the patient in that hospital or clinic.

(c) If the controlled substance is prescribed by a licensed prescriber who is a veterinarian and the controlled substance will be dispensed by a pharmacist.

(5) Beginning June 1, 2018, before prescribing or dispensing a controlled substance to a patient, a licensed prescriber shall register with the electronic system for monitoring schedule 2, 3, 4, and 5 controlled substances established under section 7333a.

(6) A licensed prescriber who dispenses controlled substances shall maintain all of the following records separately from other prescription records:

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

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

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

(7) The requirement under section 7303 for a license is waived in the following circumstances:

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

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

(8) As used in this section:

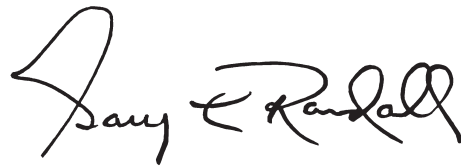
(a) "Bona fide prescriber-patient relationship" means a treatment or counseling relationship between a prescriber and a patient in which both of the following are present:

(i) The prescriber has reviewed the patient's relevant medical or clinical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant medical evaluation of the patient conducted in person or through telehealth.

(ii) The prescriber has created and maintained records of the patient's condition in accordance with medically accepted standards.

(b) "Telehealth" means that term as defined in section 16283.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved

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Governor