

HOUSE BILL NO. 5724

April 24, 2020, Introduced by Rep. Sheppard and referred to the Committee on Government Operations.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 16101 (MCL 333.16101) and by adding sections 16113 and 17715.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 16101. (1) For purposes of this article, the words and
- 2 phrases defined in sections 16102 to ~~16109~~**16109a** have the meanings
- 3 ascribed to them in those sections **unless the context clearly**
- 4 **indicates a different meaning.**



1 (2) In addition, article 1 contains general definitions and
2 principles of construction applicable to all articles in this code.

3 Sec. 16113. (1) Notwithstanding any provision of this article
4 or rule promulgated under this article to the contrary, all of the
5 following apply in response to the state of emergency described in
6 Executive Order Nos. 2020-30 and 2020-49:

7 (a) The provisions of this article that relate to scope of
8 practice, supervision, and delegation are suspended, in whole or in
9 part, as provided in this subdivision, to the extent necessary to
10 allow a licensee or registrant to provide, within the designated
11 health care facility at which the licensee or registrant is
12 employed or under contract, a medical service that is necessary to
13 support the facility's response to the COVID-19 pandemic and is
14 appropriate to the licensee's or registrant's education, training,
15 and experience, as determined by the facility in consultation with
16 the facility's medical leadership. All of the following apply for
17 purposes of this subdivision:

18 (i) A medical service may be provided under this subdivision
19 without supervision from a physician licensed under part 170 or 175
20 and without a written practice agreement with the physician. An
21 individual who provides a medical service under this subparagraph
22 is not subject to criminal prosecution, civil liability, or
23 administrative sanction for an act or omission related to the lack
24 of physician supervision or the lack of a practice agreement.

25 (ii) The provisions of parts 170, 175, and 180, and any related
26 provision of this article, that relate to scope of practice,
27 supervision, and delegation are suspended to the extent necessary
28 to allow a physician's assistant to provide a medical service
29 appropriate to his or her education, training, and experience



1 without a written practice agreement with a physician. An
2 individual who provides a medical service under this subparagraph
3 is not subject to criminal prosecution, civil liability, or
4 administrative sanction for an act or omission related to the lack
5 of a practice agreement.

6 (iii) The provisions of parts 170, 172, and 175, and any related
7 provision of this article, that relate to scope of practice,
8 supervision, and delegation are suspended to the extent necessary
9 to allow an advanced practice registered nurse to provide a medical
10 service appropriate to his or her education, training, and
11 experience without physician supervision. An individual who
12 provides a medical service under this subparagraph is not subject
13 to criminal prosecution, civil liability, or administrative
14 sanction for an act or omission related to the lack of physician
15 supervision. As used in this subparagraph, "advanced practice
16 registered nurse" means that term as defined in section 17201 and
17 includes a nurse anesthetist.

18 (iv) The provisions of parts 170, 172, and 175, and any related
19 provision of this article, that relate to scope of practice,
20 supervision, and delegation are suspended to the extent necessary
21 to allow a registered professional nurse and licensed practical
22 nurse to order the collection of a throat or nasopharyngeal swab
23 specimen from an individual suspected of being infected by COVID-
24 19, for purposes of testing the individual.

25 (v) The provisions of part 172, and any related provision of
26 this article, that relate to scope of practice, supervision, and
27 delegation are suspended to the extent necessary to allow a
28 licensed practical nurse to provide a medical service appropriate
29 to his or her education, training, and experience without the



1 supervision of a registered professional nurse. An individual who
2 provides a medical service under this subparagraph is not subject
3 to criminal prosecution, civil liability, or administrative
4 sanction for an act or omission related to the lack of supervision
5 by a registered professional nurse.

6 (vi) The provisions of part 177, and any related provision of
7 this article, that relate to scope of practice, supervision, and
8 delegation are suspended to the extent necessary to allow a
9 pharmacist to provide care for routine health maintenance, a
10 chronic disease state, or a similar condition, as appropriate to
11 his or her education, training, and experience, without physician
12 supervision. An individual who provides a service described in this
13 subparagraph is not subject to criminal prosecution, civil
14 liability, or administrative sanction for an act or omission
15 related to the lack of supervision by a physician.

16 (b) A student who is enrolled in a program to become licensed
17 or registered under this article may volunteer or work within a
18 designated health facility in whatever role is necessary to support
19 the facility's response to the COVID-19 pandemic and is appropriate
20 to the student's education, training, and experience, as determined
21 by the facility in consultation with the facility's medical
22 leadership.

23 (c) A medical student, physical therapist, or emergency
24 medical technician may volunteer or work within a designated health
25 facility to assist in the operation of a ventilator or a related
26 device under the supervision of a physician, respiratory therapist,
27 or advanced practice registered nurse. Nothing in this subdivision
28 precludes a medical student, physical therapist, or emergency
29 medical technician from providing other services necessary to



1 support the designated health facility's response to the COVID-19
2 pandemic and that are appropriate to his or her education,
3 training, and experience, as determined by the facility in
4 consultation with the facility's medical leadership.

5 (d) An individual who is licensed to practice a health care
6 profession in another state and is in good standing in that state
7 may practice in this state. An individual whose license has been
8 suspended or revoked in another state or who is the subject of
9 pending disciplinary action in another state is not in good
10 standing for purposes of this subdivision. If the individual's
11 license to practice in the other state contains restrictions or
12 conditions, the restrictions or conditions apply to the
13 individual's practice in this state. An individual who practices
14 under this subdivision is not subject to criminal prosecution,
15 civil liability, or administrative sanction for an act or omission
16 related to the lack of licensure in this state.

17 (e) A licensee or registrant is not required to complete any
18 of the following as a condition of licensure, registration, or
19 renewal of the license or registration:

20 (i) An examination, to the extent that the examination's
21 administration has been canceled while the emergency declaration is
22 in effect.

23 (ii) Fingerprinting, to the extent that, in the judgment of the
24 director, locations to have fingerprints taken are substantially
25 unavailable on account of closures arising from the COVID-19
26 pandemic.

27 (iii) Continuing education while the emergency declaration is in
28 effect.

29 (f) The department may recognize hours worked responding to



1 the COVID-19 pandemic as hours toward continuing education courses
2 or programs required for licensure.

3 (g) The department shall waive any requirement under this
4 article or a rule promulgated under this article for a licensee or
5 registrant to hold a certificate in basic life support, advanced
6 cardiac life support, or first aid, if the certificate expires or
7 is due to expire while the emergency declaration is in effect.

8 (2) As used in this section:

9 (a) "COVID-19" means coronavirus disease 2019.

10 (b) "Designated health care facility" or "facility" means 1 or
11 more of the following:

12 (i) A health facility or agency as that term is defined in
13 section 20106.

14 (ii) A state-owned surgical center.

15 (iii) A state-operated outpatient facility.

16 (iv) A state-operated veterans facility.

17 (v) An entity used as surge capacity for any of the entities
18 described in this subdivision.

19 Sec. 17715. (1) Notwithstanding any provision of this article
20 or rule promulgated under this article to the contrary, all of the
21 following apply in response to the state of emergency described in
22 Executive Order Nos. 2020-25 and 2020-30:

23 (a) A pharmacist may dispense an emergency refill of up to a
24 60-day supply of a prescription drug other than a controlled
25 substance for a resident of this state if, in the pharmacist's
26 professional judgment, a failure to refill the prescription might
27 interrupt the patient's ongoing care and have a significant adverse
28 effect on the patient's well-being. All of the following apply for
29 purposes of this subdivision:



1 (i) The pharmacist shall inform the patient that the
2 prescription was dispensed under this subdivision.

3 (ii) The pharmacist shall inform the prescriber, in writing and
4 within a reasonable period of time, of any refills that the
5 pharmacist dispensed under this subdivision.

6 (iii) Before refilling a prescription under this subdivision,
7 the pharmacist shall make a reasonable effort to communicate with
8 the prescriber regarding refilling the prescription and make a
9 record of the efforts made, including the reason for refilling a
10 prescription under this subdivision.

11 (iv) A prescriber is not subject to criminal prosecution, civil
12 liability, or administrative sanction as a result of a pharmacist
13 refilling a prescription under this subdivision.

14 (b) A pharmacist may temporarily operate a pharmacy in a
15 location that is not designated on a pharmacy license. However, the
16 pharmacy described in this subdivision may not prepare sterile drug
17 products beyond low-risk preparations, as defined by USP standards,
18 for immediate inpatient administration.

19 (c) A pharmacist may dispense and administer a drug as needed
20 to treat an individual with COVID-19 pursuant to protocols
21 established by the federal Centers for Disease Control and
22 Prevention or the National Institute of Health, or as determined by
23 the chief medical executive in the office of chief medical
24 executive created within the department of health and human
25 services or the chief medical executive's designee.

26 (d) A pharmacist may substitute a therapeutically equivalent
27 drug for a drug that is the subject of a critical shortage. A
28 pharmacist substituting a drug under this subdivision shall inform
29 the patient of the substitution and notify the prescriber of the



1 substitution within a reasonable period of time. A prescriber is
2 not subject to criminal prosecution, civil liability, or
3 administrative sanction as a result of a pharmacist's substitution
4 under this subdivision.

5 (e) A preceptor may supervise a student pharmacist remotely to
6 fulfill eligibility requirements for licensure and to avoid a delay
7 in graduation.

8 (f) A pharmacist may oversee a pharmacy technician and other
9 pharmacy staff remotely through the use of a real-time, continuous
10 audiovisual camera system that is capable of allowing the
11 pharmacist to visually identify the markings on tablets and
12 capsules. The pharmacist must have access to all relevant patient
13 information to accomplish remote oversight and must be available at
14 all times during the oversight to provide real-time patient
15 consultation. A pharmacy technician shall not perform sterile or
16 nonsterile compounding without a pharmacist on the premises.

17 (g) An out-of-state pharmacy that is in good standing is
18 considered licensed to do business in this state. An out-of-state
19 pharmacy shall not deliver controlled substances into this state
20 and shall comply with this part and the rules promulgated by this
21 part, except that an out-of-state pharmacy is not required to
22 designate a pharmacist in charge for the out-of-state pharmacy. To
23 provide sterile compounding services to a patient in this state, an
24 out-of-state pharmacy shall hold a current accreditation from a
25 national organization approved by the board.

26 (h) A manufacturer or wholesale distributor that is licensed
27 in another state is considered to be licensed to do business in
28 this state. A manufacturer or wholesale distributor that holds a
29 license in good standing in another state may temporarily



1 distribute a controlled substance in this state to a hospital or to
2 a manufacturer or wholesale distributor that is licensed under this
3 part. An out-of-state license described in this subdivision is not
4 considered to be in good standing for purposes of this subdivision
5 if it has been suspended or revoked or is the subject of pending
6 disciplinary action in another state. If an out-of-state license
7 described in this subdivision contains restrictions or conditions,
8 those restrictions or conditions apply in this state for purposes
9 of this subdivision.

10 (2) As used in this section:

11 (a) "COVID-19" means coronavirus disease 2019.

12 (b) "Out-of-state pharmacy" means a facility or part of a
13 facility that is located outside of this state and that is licensed
14 in another state to dispense prescription drugs or prepare
15 prescription drugs for delivery or distribution.

