

SENATE BILL NO. 680

October 06, 2021, Introduced by Senators OUTMAN, BARRETT, RUNESTAD, SANTANA, IRWIN and SCHMIDT and referred to the Committee on Health Policy and Human Services.

A bill to amend 1978 PA 368, entitled "Public health code," by amending sections 7303, 17201, 17210, 17211a, and 17212 (MCL 333.7303, 333.17201, 333.17210, 333.17211a, and 333.17212), section 7303 as amended by 2013 PA 268, sections 17201 and 17212 as amended and section 17211a as added by 2016 PA 499, and section 17210 as amended by 2021 PA 53, and by adding section 17210a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7303. (1) ~~A~~**Subject to subsection (9), a person who**

1 manufactures, distributes, prescribes, or dispenses a controlled
2 substance in this state or who proposes to engage in the
3 manufacture, distribution, prescribing, or dispensing of a
4 controlled substance in this state shall obtain a license issued by
5 the administrator in accordance with the rules. A person who has
6 been issued a controlled substances license by the administrator
7 under this article and a license under article 15 shall renew the
8 controlled substances license concurrently with the renewal of the
9 license issued under article 15, and for an equal number of years.

10 (2) A person licensed by the administrator under this article
11 to manufacture, distribute, prescribe, dispense, or conduct
12 research with controlled substances may possess, manufacture,
13 distribute, prescribe, dispense, or conduct research with those
14 substances to the extent authorized by its license and in
15 conformity with the other provisions of this article.

16 (3) A license issued under this article to manufacture,
17 distribute, prescribe, or dispense pharmaceutical-grade cannabis
18 and the conduct of the licensee is subject to the additional
19 requirements of article 8.

20 (4) The following persons need not be licensed and may
21 lawfully possess controlled substances or prescription forms under
22 this article:

23 (a) An agent or employee of a licensed manufacturer,
24 distributor, prescriber, or dispenser of a controlled substance if
25 acting in the usual course of the agent's or employee's business or
26 employment.

27 (b) A common or contract carrier or warehouseman, or an
28 employee thereof, whose possession of a controlled substance or
29 prescription form is in the usual course of business or employment.

1 (c) An ultimate user or agent in possession of a controlled
2 substance or prescription form pursuant to a lawful order of a
3 practitioner or in lawful possession of a schedule 5 substance.

4 (5) The administrator may waive or include by rule the
5 requirement for licensure of certain manufacturers, distributors,
6 prescribers, or dispensers, if it finds the waiver or inclusion is
7 consistent with the public health and safety.

8 (6) A separate license is required at each principal place of
9 business or professional practice where the applicant manufactures,
10 distributes, prescribes, or dispenses controlled substances.

11 (7) As a requisite for licensure, the administrator may
12 inspect the establishment of a licensee or applicant for licensure
13 in accordance with the administrator's rule.

14 (8) A person licensed under this article to distribute
15 controlled substances shall report to the administrator on a
16 quarterly basis all schedule 2 controlled substances and those
17 controlled substances designated by the administrator pursuant to
18 this subsection that are sold to licensed practitioners and retail
19 pharmacies. The report ~~shall~~**must** be in writing and ~~shall~~**must**
20 include the name of each licensed practitioner and retail pharmacy
21 to whom the controlled substance was distributed. A report under
22 this subsection may be transmitted electronically, if the
23 transmission is ultimately reduced to writing. The administrator
24 shall designate by rule the controlled substances in schedules 3 to
25 5 to be reported under this subsection.

26 **(9) The administrator may issue a controlled substances**
27 **license to an individual licensed as a registered professional**
28 **nurse under part 172 if the individual has been granted a specialty**
29 **certification as a nurse practitioner by the Michigan board of**

1 **nursing under section 17210.**

2 Sec. 17201. (1) As used in this part:

3 (a) "Advanced practice registered nurse" or "a.p.r.n." means a
4 registered professional nurse who has been granted a specialty
5 certification under section 17210 in 1 of the following health
6 profession specialty fields:

7 (i) Nurse midwifery.

8 (ii) Nurse practitioner.

9 (iii) Clinical nurse specialist.

10 (b) "Physician" means a physician who is licensed under part
11 170 or part 175.

12 (c) ~~"Practice~~**Subject to sections 17210 and 17210a, "practice**
13 of nursing" means the systematic application of substantial
14 specialized knowledge and skill, derived from the biological,
15 physical, and behavioral sciences, to the care, treatment, counsel,
16 and health teaching of individuals who are experiencing changes in
17 the normal health processes or who require assistance in the
18 maintenance of health and the prevention or management of illness,
19 injury, or disability.

20 (d) "Practice of nursing as a licensed practical nurse" or
21 "l.p.n." means the practice of nursing based on less comprehensive
22 knowledge and skill than that required of a registered professional
23 nurse and performed under the supervision of a registered
24 professional nurse, physician, or dentist.

25 (e) "Registered professional nurse" or "r.n." means an
26 individual who is licensed under this part to engage in the
27 practice of nursing which scope of practice includes the teaching,
28 direction, and supervision of less skilled personnel in the
29 performance of delegated nursing activities.

1 (2) In addition to the definitions in this part, article 1
 2 contains general definitions and principles of construction
 3 applicable to all articles in the code and part 161 contains
 4 definitions applicable to this part.

5 Sec. 17210. (1) ~~The Michigan~~ **Subject to this section and**
 6 **section 17210a, the** board of ~~nursing~~ may grant a specialty
 7 certification to a registered professional nurse who has advanced
 8 training beyond that required for initial licensure, who has
 9 demonstrated competency through examination or other evaluative
 10 processes, and who practices in 1 of the following health
 11 profession specialty fields:

12 (a) Nurse midwifery.

13 (b) Nurse anesthetist.

14 (c) Nurse practitioner.

15 (d) ~~Subject to subsection (2), clinical~~ **Clinical** nurse
 16 specialist.

17 (2) The ~~Michigan~~ board of ~~nursing~~ shall promulgate rules
 18 establishing the qualifications for the training and competency of
 19 the health profession specialty field of clinical nurse specialist.
 20 The ~~Michigan~~ board of ~~nursing~~ shall not grant a specialty
 21 certification as a clinical nurse specialist under subsection (1)
 22 until after the effective date of the rules promulgated under this
 23 subsection.

24 (3) All of the following apply to a registered professional
 25 nurse who holds a specialty certification as a nurse anesthetist:

26 (a) In addition to performing duties within the scope of the
 27 practice of nursing, his or her scope of practice includes any of
 28 the following anesthesia and analgesia services if the services are
 29 performed in accordance with the American Association of Nurse

1 Anesthetists Standards for Nurse Anesthesia Practice:

2 (i) Development of a plan of care.

3 (ii) Performance of all patient assessments, procedures, and
4 monitoring to implement the plan of care or to address patient
5 emergencies that arise during implementation of the plan of care.

6 (iii) Selection, ordering, or prescribing and the administration
7 of anesthesia and analgesic agents, including pharmacological
8 agents that are prescription drugs as defined in section 17708 or
9 controlled substances. For purposes of this subparagraph, the
10 authority of a registered professional nurse who holds a specialty
11 certification as a nurse anesthetist to prescribe pharmacological
12 agents is limited to pharmacological agents for administration to
13 patients as described in subdivision (b), (c), or (d), and his or
14 her authority does not include any activity that would permit a
15 patient to self-administer, obtain, or receive pharmacological
16 agents, including prescription drugs or controlled substances,
17 outside of the facility in which the anesthetic or analgesic
18 service is performed or beyond the perioperative, periobstetrical,
19 or periprocedural period.

20 (b) If he or she meets both of the following requirements, he
21 or she may provide the anesthesia and analgesia services described
22 in subdivision (a) without supervision:

23 (i) He or she meets either of the following:

24 (A) He or she has practiced in the health profession specialty
25 field of nurse anesthetist for 3 years or more and has practiced in
26 that health profession specialty field in a health care facility
27 for a minimum of 4,000 hours.

28 (B) He or she has a doctor of nurse anesthesia practice degree
29 or doctor of nursing practice degree.

1 (ii) He or she is collaboratively participating in a patient-
2 centered care team.

3 (c) He or she may provide the anesthesia and analgesia
4 services described in subdivision (a) in a health care facility if
5 the health care facility has a policy in place under subsection (4)
6 allowing for the provision of the anesthesia and analgesia services
7 and ensuring that a qualified health care professional is
8 immediately available in person or through telemedicine to address
9 any urgent or emergent clinical concerns.

10 (d) The anesthesia and analgesia services described in
11 subdivision (a) may be performed for and during the perioperative,
12 periobstetrical, or periprocedural period.

13 (e) If he or she is practicing pain management in a
14 freestanding pain clinic, he or she must be under the supervision
15 of a physician.

16 (4) A health care facility may adopt policies relating to the
17 provision of anesthesia and analgesia services. If a health care
18 facility uses a registered professional nurse who holds a specialty
19 certification as a nurse anesthetist to perform the anesthesia and
20 analgesia services described in subsection (3) who is not employed
21 by the health care facility, the health care facility shall ensure
22 that the registered professional nurse or the person employing the
23 registered professional nurse maintains malpractice insurance.

24 (5) Subsection (3) does not require new or additional third
25 party reimbursement or mandated worker's compensation benefits for
26 anesthesia and analgesia services provided under that subsection by
27 a registered professional nurse who holds a specialty certification
28 as a nurse anesthetist under this part.

29 (6) As used in this section:

1 (a) "Collaboratively participating" means practicing and
2 communicating with health care professionals involved in the
3 patient-centered care team to optimize the overall care delivered
4 to the patient.

5 (b) "Health care facility" means any of the following:

6 (i) A hospital inpatient or outpatient facility.

7 (ii) A freestanding surgical outpatient facility.

8 (iii) An office of a physician, podiatrist, or dentist.

9 (iv) Any other office or facility in which diagnostic or
10 therapeutic procedures are provided to a patient, including, but
11 not limited to, imaging, endoscopy, or cystoscopy services.

12 (c) "Health care professional" means an individual who is
13 licensed or registered to perform a health profession under this
14 article.

15 (d) "Patient-centered care team" means a group of health care
16 professionals, which must include, but is not limited to, a
17 qualified health care professional, who directly or indirectly care
18 for a patient by each contributing his or her specialized
19 knowledge, skill, and experience to the care of the patient.

20 (e) "Qualified health care professional" means any of the
21 following health care professionals who has completed the necessary
22 education, training, and experience in anesthesia care or
23 pharmacology, or has experience with procedures requiring
24 anesthesia:

25 (i) A physician.

26 (ii) A dentist licensed under part 166.

27 (iii) A podiatric physician licensed under part 180.

28 **Sec. 17210a. (1) The board may grant a specialty certification**
29 **as a nurse practitioner under section 17210 to a registered**

1 professional nurse who meets all of the following requirements:

2 (a) Has completed a graduate, postgraduate, or doctoral level
3 nursing education program that the board determines prepares the
4 registered professional nurse for the health profession specialty
5 field of nurse practitioner.

6 (b) Has completed a graduate level course in pharmacology,
7 pathophysiology, and physical assessment, or their equivalent as
8 determined by the board, and has completed a clinical practicum
9 applicable to the health profession specialty field of nurse
10 practitioner.

11 (c) Holds a certification from a nationally accredited
12 certification body approved by the board.

13 (d) Meets any other requirement established by the board by
14 rule.

15 (2) All of the following apply to a registered professional
16 nurse who holds a specialty certification as a nurse practitioner:

17 (a) In addition to performing duties within the practice of
18 nursing, his or her scope of practice includes all of the
19 following:

20 (i) Performing comprehensive assessments, providing physical
21 examinations and other health assessments, and providing screening
22 activities.

23 (ii) Diagnosing, treating, and managing patients with acute and
24 chronic illnesses and diseases.

25 (iii) Ordering, performing, supervising, and interpreting
26 laboratory and imaging studies.

27 (iv) Prescribing pharmacological and nonpharmacological
28 interventions and treatments that are within the registered
29 professional nurse's specialty role.

1 (v) Engaging in health promotion and disease prevention.

2 (vi) Providing health education.

3 (vii) Counseling patients and families with potential, acute,
4 and chronic health disorders.

5 (b) He or she shall do all of the following:

6 (i) Provide only the functions common to the population for
7 which a registered professional nurse who holds a specialty
8 certification as a nurse practitioner is educationally and
9 experientially prepared.

10 (ii) Comply with the standards established by the board and
11 with the national accreditation standards of the national
12 professional nursing associations applicable to his or her
13 specialty certification.

14 (iii) Consult with other health professionals and refer a
15 patient to other health professionals, as appropriate.

16 (c) He or she may supervise registered professional nurses,
17 licensed practical nurses, and other health professionals, as
18 appropriate.

19 Sec. 17211a. (1) An advanced practice registered nurse may
20 prescribe any of the following:

21 (a) A nonscheduled prescription drug.

22 (b) ~~Subject to subsection (2),~~ **Except as otherwise provided in**
23 **subsection (2),** a controlled substance included in schedules 2 to 5
24 of part 72, as a delegated act of a physician.

25 ~~(2)~~ If an advanced practice registered nurse prescribes a
26 controlled substance under ~~subsection (1) (b),~~ **this subdivision,**
27 both the advanced practice registered nurse's name and the
28 physician's name ~~shall~~ **must** be used, recorded, or otherwise
29 indicated in connection with that prescription, ~~. If an advanced~~

1 ~~practice registered nurse prescribes a controlled substance under~~
2 ~~subsection (1) (b), and~~ both the advanced practice registered
3 nurse's and the physician's DEA registration numbers ~~shall~~**must** be
4 used, recorded, or otherwise indicated in connection with that
5 prescription.

6 **(2) An advanced practice registered nurse who holds a**
7 **specialty certification in the specialty field of nurse**
8 **practitioner may prescribe a controlled substance included in**
9 **schedules 2 to 5 of part 72 without delegation from a physician if**
10 **he or she prescribes the controlled substance while practicing in**
11 **the health profession specialty field of nurse practitioner. If a**
12 **controlled substance is prescribed under this subsection, only the**
13 **name of the advanced practice registered nurse described in this**
14 **subsection must be used, recorded, or otherwise indicated in**
15 **connection with the prescription and only the advanced practice**
16 **registered nurse's DEA registration number must be used, recorded,**
17 **or otherwise indicated in connection with the prescription.**

18 (3) ~~The amendatory act that added this~~**This** section does not
19 require new or additional third-party reimbursement or mandated
20 worker's compensation benefits for services rendered by an advanced
21 practice registered nurse who is authorized to prescribe
22 nonscheduled prescription drugs and controlled substances included
23 in schedules 2 to 5 of part 72. ~~under this section.~~

24 Sec. 17212. (1) Subject to subsections (2), ~~and~~(3), **and (4)**,
25 in addition to acts, tasks, and functions delegated under section
26 16215, 17211a(1) (b), 17745, 17745a, or 17745b, a supervising
27 physician may delegate in writing to a registered professional
28 nurse the ordering, receipt, and dispensing of complimentary
29 starter dose drugs other than controlled substances as defined in

1 article 7 or federal law. If a delegated ordering, receipt, or
2 dispensing of complimentary starter dose drugs described in this
3 subsection occurs, both the registered professional nurse's name
4 and the supervising physician's name ~~shall~~**must** be used, recorded,
5 or otherwise indicated in connection with each order, receipt, or
6 dispensing.

7 (2) ~~Subject to subsection (3), an~~**An** advanced practice
8 registered nurse may order, receive, and dispense a complimentary
9 starter dose drug **other than a controlled substance** without
10 delegation from a physician. Only the name of the advanced practice
11 registered nurse ~~shall~~**must** be used, recorded, or otherwise
12 indicated in connection with an order, receipt, or dispensing of a
13 complimentary starter dose drug under this subsection.

14 (3) ~~An~~**Except as otherwise provided in subsection (4), an**
15 advanced practice registered nurse may order, receive, and dispense
16 complimentary starter doses of controlled substances included in
17 schedules 2 to 5 of part 72 as a delegated act of a physician. If a
18 delegated ordering, receipt, or dispensing of complimentary starter
19 dose drugs described in this subsection occurs, the advanced
20 practice registered nurse's name and the delegating physician's
21 name ~~shall~~**must** be used, recorded, or otherwise indicated in
22 connection with each order, receipt, or dispensing and both the
23 advanced practice registered nurse's and the delegating physician's
24 DEA registration number ~~shall~~**must** be used, recorded, or otherwise
25 indicated in connection with each order, receipt, or dispensing.

26 (4) **An advanced practice registered nurse who holds a**
27 **specialty certification in the specialty field of nurse**
28 **practitioner may order, receive, and dispense complimentary starter**
29 **doses of controlled substances included in schedules 2 to 5 of part**

1 72 without delegation from a physician. If an advanced practice
2 registered nurse described in this subsection orders, receives, or
3 dispenses a complimentary starter dose drug described in this
4 subsection, only the advanced practice registered nurse's name must
5 be used, recorded, or otherwise indicated in connection with each
6 order, receipt, or dispensing and only the advanced practice
7 registered nurse's DEA registration number must be used, recorded,
8 or otherwise indicated in connection with each order, receipt, or
9 dispensing.

10 (5) ~~(4)~~—It is the intent of the legislature in enacting this
11 section to allow a pharmaceutical manufacturer or wholesale
12 distributor, as those terms are defined in part 177, to distribute
13 complimentary starter dose drugs to an advanced practice registered
14 nurse described in subsections (2), ~~and (3)~~, **and (4)**, or to a
15 registered professional nurse described in subsection (1), in
16 compliance with ~~section 503(d) of the federal food, drug, and~~
17 ~~cosmetic act,~~ 21 USC 353.

18 (6) ~~(5)~~—As used in this section, "complimentary starter dose"
19 means that term as defined in section 17745.