

**SUBSTITUTE FOR
SENATE BILL NO. 274**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 7333 (MCL 333.7333), as amended by 2010 PA 3
and by adding section 7333b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7333. (1) As used in this section, "good faith" means the
2 prescribing or dispensing of a controlled substance by a
3 practitioner licensed under section 7303 in the regular course of
4 professional treatment to or for an individual who is under
5 treatment by the practitioner for a pathology or condition other
6 than that individual's physical or psychological dependence upon or
7 addiction to a controlled substance, except as provided in this
8 article. Application of good faith to a pharmacist means the

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dispensing of a controlled substance pursuant to a prescriber's order which, in the professional judgment of the pharmacist, is lawful. The pharmacist shall be guided by nationally accepted professional standards including, but not limited to, all of the following, in making the judgment:

(a) Lack of consistency in the doctor-patient relationship.

(b) Frequency of prescriptions for the same drug by 1 prescriber for larger numbers of patients.

(c) Quantities beyond those normally prescribed for the same drug.

(d) Unusual dosages.

(e) Unusual geographic distances between patient, pharmacist, and prescriber.

(2) Except as otherwise provided in this section, a practitioner, in good faith, may dispense a controlled substance included in schedule 2 upon receipt of a prescription of a practitioner licensed under section 7303 on a prescription form. A practitioner may issue more than 1 prescription for a controlled substance included in schedule 2 on a single prescription form.

(3) In an emergency situation, as described in R 338.3165 of the Michigan ~~administrative code,~~ **ADMINISTRATIVE CODE**, a controlled substance included in schedule 2 may be dispensed upon the oral prescription of a practitioner if the prescribing practitioner promptly fills out a prescription form and forwards the prescription form to the dispensing pharmacy within 7 days after the oral prescription is issued. ~~[Except for a terminally ill patient whose terminal illness the pharmacist documents pursuant to~~

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~~rules promulgated by the administrator,~~

~~—a A] prescription for a controlled substance included
in schedule 2 shall **MUST** not be filled more than 90 days after the
date on which the prescription was issued. A prescription for a
controlled substance included in schedule 2 for a terminally ill
patient whose terminal illness the pharmacist documents pursuant to
rules promulgated by the administrator may be partially filled in
increments for not more than 60 days after the date on which the
prescription was issued.~~ **A PHARMACIST [,CONSISTENT WITH FEDERAL LAW AND
REGULATIONS ON THE PARTIAL FILLING OF A CONTROLLED SUBSTANCE INCLUDED IN
SCHEDULE 2,] MAY PARTIALLY FILL IN**

**INCREMENTS A PRESCRIPTION FOR A CONTROLLED SUBSTANCE INCLUDED IN
SCHEDULE 2[.**

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(4) A practitioner, in good faith, may dispense a controlled substance included in schedule 3, 4, or 5 that is a prescription drug as determined under section 503(b) of the federal food, drug, and cosmetic act, 21 USC 353, or section 17708, upon receipt of a prescription on a prescription form or an oral prescription of a practitioner. A prescription for a controlled substance included in schedule 3 or 4 ~~shall~~**MUST** not be filled or refilled without specific refill instructions noted by the prescriber. A prescription for a controlled substance included in schedule 3 or 4 ~~shall~~**MUST** not be filled or refilled later than 6 months after the date of the prescription or be refilled more than 5 times, unless renewed by the prescriber in accordance with rules promulgated by the administrator.

(5) A controlled substance included in schedule 5 ~~shall~~**MUST** not be distributed or dispensed other than for a medical purpose, or in any manner except in accordance with rules promulgated by the administrator.

(6) If a prescription is required under this section, the prescription ~~shall~~**MUST** contain the quantity of the controlled substance prescribed in both written and numerical terms. A prescription is in compliance with this subsection if, in addition to containing the quantity of the controlled substance prescribed in written terms, it contains preprinted numbers representative of the quantity of the controlled substance prescribed next to which

1 is a box or line the prescriber may check.

2 (7) A prescribing practitioner shall not use a prescription
3 form for a purpose other than prescribing. A prescribing
4 practitioner shall not postdate a prescription form that contains a
5 prescription for a controlled substance. A prescriber may transmit
6 a prescription by facsimile of a printed prescription form and by
7 electronic transmission of a printed prescription form, if not
8 prohibited by federal law. If, with the patient's consent, a
9 prescription is electronically transmitted, it ~~shall~~**MUST** be
10 transmitted directly to a pharmacy of the patient's choice by the
11 prescriber or the prescriber's authorized agent, and the data ~~shall~~
12 **MUST** not be altered, modified, or extracted in the transmission
13 process.

14 (8) Notwithstanding subsections (1) to (5), an animal control
15 shelter or animal protection shelter registered with the department
16 of agriculture **AND RURAL DEVELOPMENT** pursuant to 1969 PA 287, MCL
17 287.331 to 287.340, or a class B dealer may acquire a limited
18 permit only for the purpose of buying, possessing, and
19 administering a commercially prepared, premixed solution of sodium
20 pentobarbital to practice euthanasia on injured, sick, homeless, or
21 unwanted domestic pets and other animals, if the animal control
22 shelter or animal protection shelter or class B dealer does all of
23 the following:

24 (a) Applies to the administrator for a permit in accordance
25 with rules promulgated under this part. The application ~~shall~~**MUST**
26 contain the name of the individual in charge of the ~~day-to-day~~**DAY-**
27 **TO-DAY** operations of the animal control shelter or animal

1 protection shelter or class B dealer's facilities and the name of
2 the individual responsible for designating employees who will be
3 practicing euthanasia on animals pursuant to this act.

4 (b) Complies with the rules promulgated by the administrator
5 for the storage, handling, and use of a commercially prepared,
6 premixed solution of sodium pentobarbital to practice euthanasia on
7 animals. A record of use ~~shall~~**MUST** be maintained and ~~shall~~**MUST** be
8 available for inspection.

9 (c) Certifies that an employee of the animal control shelter
10 or animal protection shelter or class B dealer has received, and
11 can document completion of, a minimum of 8 hours of training given
12 by a licensed veterinarian in the use of sodium pentobarbital to
13 practice euthanasia on animals pursuant to rules promulgated by the
14 administrator, in consultation with the Michigan board of
15 veterinary medicine as these rules relate to this training, and
16 that only an individual described in this subdivision or an
17 individual otherwise permitted to use a controlled substance
18 pursuant to this article will administer the commercially prepared,
19 premixed solution of sodium pentobarbital according to written
20 procedures established by the animal control shelter or animal
21 protection shelter or class B dealer.

22 (9) The application described in subsection (8) ~~shall~~**MUST**
23 include the names and addresses of all individuals employed by the
24 animal control shelter or animal protection shelter or class B
25 dealer who have been trained as described in subsection (8) (c) and
26 the name of the veterinarian who trained them. The list of names
27 and addresses ~~shall~~**MUST** be updated every 6 months.

1 (10) If an animal control shelter or animal protection shelter
2 or class B dealer issued a permit pursuant to subsection (8) does
3 not have in its employ an individual trained as described in
4 subsection (8)(c), the animal control shelter or animal protection
5 shelter or class B dealer shall immediately notify the
6 administrator and shall cease to administer any commercially
7 prepared, premixed solution of sodium pentobarbital until the
8 administrator is notified that 1 of the following has occurred:

9 (a) An individual trained as described in subsection (8)(c)
10 has been hired by the animal control shelter or animal protection
11 shelter or class B dealer.

12 (b) An employee of the animal control shelter or animal
13 protection shelter or class B dealer has been trained as described
14 in subsection (8)(c).

15 (11) A veterinarian, including a veterinarian who trains
16 individuals as described in subsection (8)(c), is not civilly or
17 criminally liable for the use of a commercially prepared, premixed
18 solution of sodium pentobarbital by an animal control shelter or
19 animal protection shelter or class B dealer unless the veterinarian
20 is employed by or under contract with the animal control shelter or
21 animal protection shelter or class B dealer and the terms of the
22 veterinarian's employment or the contract require the veterinarian
23 to be responsible for the use or administration of the commercially
24 prepared, premixed solution of sodium pentobarbital.

25 (12) A person shall not knowingly use or permit the use of a
26 commercially prepared, premixed solution of sodium pentobarbital in
27 violation of this section.

1 (13) This section does not require that a veterinarian be
2 employed by or under contract with an animal control shelter or
3 animal protection shelter or class B dealer to obtain, possess, or
4 administer a commercially prepared, premixed solution of sodium
5 pentobarbital pursuant to this section.

6 (14) Notwithstanding subsections (1) to (5), an animal control
7 shelter registered with the department of agriculture **AND RURAL**
8 **DEVELOPMENT** pursuant to 1969 PA 287, MCL 287.331 to 287.340, may
9 acquire a limited permit only for the purpose of buying,
10 possessing, and administering a commercially prepared solution of
11 an animal tranquilizer to sedate a feral, wild, difficult to
12 handle, or other animal for euthanasia, or to tranquilize an animal
13 running at large that is dangerous or difficult to capture, if the
14 animal control shelter does all of the following:

15 (a) Applies to the administrator for a permit in accordance
16 with the rules promulgated under this part. The application ~~shall~~
17 **MUST** contain the name of the individual in charge of the ~~day-to-day~~
18 **DAY-TO-DAY** operations of the animal control shelter and the name of
19 the individual responsible for designating employees who will be
20 administering an animal tranquilizer pursuant to this act.

21 (b) Complies with the rules promulgated by the administrator
22 for the storage, handling, and use of a commercially prepared
23 solution of an animal tranquilizer. A record of use ~~shall~~**MUST** be
24 maintained and ~~shall~~**MUST** be available for inspection by the
25 department of agriculture **AND RURAL DEVELOPMENT**.

26 (c) Certifies that an employee of the animal control shelter
27 has received, and can document completion of, a minimum of 16 hours

1 of training, including at least 3 hours of practical training, in
2 the use of animal tranquilizers on animals from a training program
3 approved by the state veterinarian, in consultation with the
4 Michigan board of veterinary medicine, and given by a licensed
5 veterinarian pursuant to rules promulgated by the administrator, in
6 consultation with the Michigan board of veterinary medicine as
7 these rules relate to this training, and that only an individual
8 described in this subdivision or an individual otherwise permitted
9 to use a controlled substance pursuant to this article will
10 administer the commercially prepared solution of an animal
11 tranquilizer according to written procedures established by the
12 animal control shelter.

13 (15) Notwithstanding subsections (1) to (5), an animal
14 protection shelter registered with the department of agriculture
15 **AND RURAL DEVELOPMENT** pursuant to 1969 PA 287, MCL 287.331 to
16 287.340, may acquire a limited permit only for the purpose of
17 buying, possessing, and administering a commercially prepared
18 solution of an animal tranquilizer to sedate a feral, wild,
19 difficult to handle, or other animal for euthanasia, if the animal
20 protection shelter does all of the following:

21 (a) Applies to the administrator for a permit in accordance
22 with the rules promulgated under this part. The application ~~shall~~
23 **MUST** contain the name of the individual in charge of the ~~day-to-day~~
24 **DAY-TO-DAY** operations of the animal protection shelter and the name
25 of the individual responsible for designating employees who will be
26 administering an animal tranquilizer pursuant to this act.

27 (b) Complies with the rules promulgated by the administrator

1 for the storage, handling, and use of a commercially prepared
2 solution of an animal tranquilizer. A record of use ~~shall~~**MUST** be
3 maintained and ~~shall~~**MUST** be available for inspection by the
4 department of agriculture **AND RURAL DEVELOPMENT**.

5 (c) Certifies that an employee of the animal protection
6 shelter has received, and can document completion of, a minimum of
7 16 hours of training, including at least 3 hours of practical
8 training, in the use of animal tranquilizers on animals from a
9 training program approved by the state veterinarian, in
10 consultation with the Michigan board of veterinary medicine, and
11 given by a licensed veterinarian pursuant to rules promulgated by
12 the administrator, in consultation with the Michigan board of
13 veterinary medicine as these rules relate to this training, and
14 that only an individual described in this subdivision or an
15 individual otherwise permitted to use a controlled substance
16 pursuant to this article will administer the commercially prepared
17 solution of an animal tranquilizer according to written procedures
18 established by the animal protection shelter.

19 (16) The application described in subsection (14) or (15)
20 ~~shall~~**MUST** include the names and business addresses of all
21 individuals employed by the animal control shelter or animal
22 protection shelter who have been trained as described in subsection
23 (14) (c) or (15) (c) and ~~shall~~**MUST** include documented proof of the
24 training. The list of names and business addresses ~~shall~~**MUST** be
25 updated every 6 months.

26 (17) If an animal control shelter or animal protection shelter
27 issued a permit pursuant to subsection (14) or (15) does not have

1 in its employ an individual trained as described in subsection
2 (14) (c) or (15) (c), the animal control shelter or animal protection
3 shelter shall immediately notify the administrator and shall cease
4 to administer any commercially prepared solution of an animal
5 tranquilizer until the administrator is notified that 1 of the
6 following has occurred:

7 (a) An individual trained as described in subsection (14) (c)
8 or (15) (c) has been hired by the animal control shelter or animal
9 protection shelter.

10 (b) An employee of the animal control shelter or animal
11 protection shelter has been trained as described in subsection
12 (14) (c) or (15) (c).

13 (18) A veterinarian, including a veterinarian who trains
14 individuals as described in subsection (14) (c) or (15) (c), is not
15 civilly or criminally liable for the use of an animal tranquilizer
16 by an animal control shelter or animal protection shelter unless
17 the veterinarian is employed by or under contract with the animal
18 control shelter or animal protection shelter and the terms of the
19 veterinarian's employment or the contract require the veterinarian
20 to be responsible for the use or administration of the commercially
21 prepared solution of an animal tranquilizer.

22 (19) A person shall not knowingly use or permit the use of an
23 animal tranquilizer in violation of this section.

24 (20) This section does not require that a veterinarian be
25 employed by or under contract with an animal control shelter or
26 animal protection shelter to obtain, possess, or administer a
27 commercially prepared solution of an animal tranquilizer pursuant

1 to this section.

2 (21) As used in this section:

3 (a) "Animal tranquilizer" means xylazine hydrochloride or
4 other animal tranquilizing drug as approved by the United States
5 ~~food and drug administration~~ **FOOD AND DRUG ADMINISTRATION** and by
6 the state department of agriculture **AND RURAL DEVELOPMENT** for use
7 as described in this section.

8 (b) "Class B dealer" means a class B dealer licensed by the
9 United States ~~department of agriculture~~ **DEPARTMENT OF AGRICULTURE**
10 pursuant to the animal welfare act, 7 USC 2131 to 2159 and the
11 department of agriculture **AND RURAL DEVELOPMENT** pursuant to 1969 PA
12 224, MCL 287.381 to 287.395.

13 **SEC. 7333B. (1) BEGINNING JULY 1, 2018, IF A PRESCRIBER IS**
14 **TREATING A PATIENT FOR ACUTE PAIN, THE PRESCRIBER SHALL NOT**
15 **PRESCRIBE THE PATIENT MORE THAN A 7-DAY SUPPLY OF AN OPIOID WITHIN**
16 **A 7-DAY PERIOD.**

17 **(2) AS USED IN THIS SECTION, "ACUTE PAIN" MEANS PAIN THAT IS**
18 **THE NORMAL, PREDICTED PHYSIOLOGICAL RESPONSE TO A NOXIOUS CHEMICAL**
19 **OR A THERMAL OR MECHANICAL STIMULUS AND IS TYPICALLY ASSOCIATED**
20 **WITH INVASIVE PROCEDURES, TRAUMA, AND DISEASE AND USUALLY LASTS FOR**
21 **A LIMITED AMOUNT OF TIME.**

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