SUBSTITUTE FOR

SENATE BILL NO. 274

A bill to amend 1978 PA 368, entitled

"Public health code,"

by amending sections 7333, 17744e, and 17763 (MCL 333.7333, 333.17744e, and 333.17763), section 7333 as amended by 2010 PA 3, section 17744e as added by 2016 PA 383, and section 17763 as amended by 2016 PA 49, and by adding section 7333b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 7333. (1) As used in this section, "good faith" means the prescribing or dispensing of a controlled substance by a practitioner licensed under section 7303 in the regular course of professional treatment to or for an individual who is under treatment by the practitioner for a pathology or condition other than that individual's physical or psychological dependence upon or

addiction to a controlled substance, except as provided in this article. Application of good faith to a pharmacist means the 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 rules promulgated by the administrator,~~ **AS OTHERWISE PROVIDED IN THIS SUBSECTION,** 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 MAY PARTIALLY FILL IN INCREMENTS A PRESCRIPTION FOR A CONTROLLED SUBSTANCE INCLUDED IN SCHEDULE 2 IF 1 OF THE FOLLOWING IS MET:**

(A) THE PHARMACIST IS UNABLE TO SUPPLY THE FULL QUANTITY OF THE CONTROLLED SUBSTANCE PRESCRIBED OR THE PATIENT REQUESTS A SMALLER QUANTITY OF THE CONTROLLED SUBSTANCE THAN WHAT WAS PRESCRIBED. A PRESCRIPTION FOR A CONTROLLED SUBSTANCE THAT IS PARTIALLY FILLED UNDER THIS SUBDIVISION MUST NOT BE FILLED MORE THAN 30 DAYS AFTER THE DATE ON WHICH THE PRESCRIPTION WAS ISSUED.

(B) THE PRESCRIPTION WAS FILLED UPON THE ORAL PRESCRIPTION OF A PRACTITIONER. A PRESCRIPTION FOR A CONTROLLED SUBSTANCE THAT IS PARTIALLY FILLED UNDER THIS SUBDIVISION MUST NOT BE FILLED MORE THAN 72 HOURS AFTER THE FIRST PARTIAL FILLING. A PHARMACIST WHO PARTIALLY FILLS A PRESCRIPTION UNDER THIS SUBDIVISION SHALL RECORD THE QUANTITY DISPENSED ON THE PRESCRIPTION AND SHALL MAINTAIN THAT DOCUMENTATION WITH THE PRESCRIPTION AS REQUIRED IN SECTION 17752.

(C) THE PRESCRIPTION IS FOR A TERMINALLY ILL PATIENT WHOSE

TERMINAL ILLNESS THE PHARMACIST DOCUMENTS PURSUANT TO RULES PROMULGATED BY THE ADMINISTRATOR. A PRESCRIPTION FOR A CONTROLLED SUBSTANCE INCLUDED IN SCHEDULE 2 THAT IS PARTIALLY FILLED UNDER THIS SUBDIVISION MUST NOT BE FILLED MORE THAN 60 DAYS AFTER THE DATE ON WHICH THE PRESCRIPTION WAS ISSUED.

(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 is a box or line the prescriber may check.

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

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

(a) Applies to the administrator for a permit in accordance with rules promulgated under this part. The application ~~shall~~ **MUST**

contain the name of the individual in charge of the ~~day to day~~ **DAY-TO-DAY** operations of the animal control shelter or animal protection shelter or class B dealer's facilities and the name of the individual responsible for designating employees who will be practicing euthanasia on animals pursuant to this act.

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

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

(9) The application described in subsection (8) ~~shall~~ **MUST** include the names and addresses of all individuals employed by the animal control shelter or animal protection shelter or class B dealer who have been trained as described in subsection (8)(c) and

the name of the veterinarian who trained them. The list of names and addresses ~~shall~~ **MUST** be updated every 6 months.

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

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

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

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

(12) A person shall not knowingly use or permit the use of a

commercially prepared, premixed solution of sodium pentobarbital in violation of this section.

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

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

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

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

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

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

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

administering an animal tranquilizer pursuant to this act.

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

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

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

(17) If an animal control shelter or animal protection shelter issued a permit pursuant to subsection (14) or (15) does not have in its employ an individual trained as described in subsection (14)(c) or (15)(c), the animal control shelter or animal protection shelter shall immediately notify the administrator and shall cease to administer any commercially prepared solution of an animal tranquilizer until the administrator is notified that 1 of the following has occurred:

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

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

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

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

(20) This section does not require that a veterinarian be employed by or under contract with an animal control shelter or

animal protection shelter to obtain, possess, or administer a commercially prepared solution of an animal tranquilizer pursuant to this section.

(21) As used in this section:

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

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

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

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

Sec. 17744e. (1) Notwithstanding any provision of this act to the contrary, the chief medical executive in the office of chief medical executive created within the department of health and human services may issue a standing order that does not identify

particular patients at the time it is issued for the purpose of a pharmacist dispensing opioid antagonists to individuals under this section.

(2) Notwithstanding any provision of this act to the contrary, a pharmacist may dispense an opioid antagonist to any individual pursuant to a standing order issued by the chief medical executive under subsection (1) and the rules promulgated under this section.

(3) The chief medical executive who issues a standing order for an opioid antagonist under this section or a pharmacist who dispenses an opioid antagonist as authorized under this section is not liable in a civil action for damages resulting from the dispensing of the opioid antagonist or the administration of or failure to administer the opioid antagonist.

(4) A PHARMACY ENGAGED IN THE BUSINESS OF SELLING DRUGS AT RETAIL SHALL ENSURE THAT EACH INDIVIDUAL WHO FILLS A PRESCRIPTION AT THE PHARMACY IS INFORMED, AT THE TIME OF SALE, THAT THE INDIVIDUAL IS ELIGIBLE TO RECEIVE AN OPIOID ANTAGONIST PURSUANT TO A STANDING ORDER ISSUED BY THE CHIEF MEDICAL EXECUTIVE UNDER SUBSECTION (1).

(5) ~~(4)~~ The department, in consultation with the department of health and human services and local health departments, shall promulgate rules regarding dispensing, training, and referral to implement this section.

Sec. 17763. In addition to the grounds set forth in part 161, the disciplinary subcommittee may fine, reprimand, or place a pharmacist licensee on probation, or deny, limit, suspend, or revoke the license of a pharmacist or order restitution or

community service for a violation or abetting in a violation of this part or rules promulgated under this part, or for 1 or more of the following grounds:

(a) Permitting the dispensing of prescriptions by an individual who is not a pharmacist, pharmacist intern, or dispensing prescriber.

(b) Permitting the dispensing of prescriptions by a pharmacist intern, except in the presence and under the personal charge of a pharmacist.

(c) Selling at auction drugs in bulk or in open packages unless the sale has been approved in accordance with rules of the board.

(d) ~~Promoting~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTION 17744E, PROMOTING** a prescription drug to the public in any manner.

(e) In addition to the prohibition contained in section 7405(1)(e), dispensing a prescription for a controlled substance ~~as defined in section 7104~~ that is written and signed; written or created in an electronic format, signed, and transmitted by facsimile; or transmitted electronically or by other means of communication by a physician prescriber, dentist prescriber, or veterinarian prescriber in another state, unless the prescription is issued by a physician prescriber, dentist prescriber, or veterinarian prescriber who is authorized under the laws of that state to practice dentistry, medicine, osteopathic medicine and surgery, or veterinary medicine and to prescribe controlled substances.

Enacting section 1. This amendatory act takes effect 90 days

after the date it is enacted into law.