

**SUBSTITUTE FOR
SENATE BILL NO. 340**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 17707, 17708, 17709, 17722, 17726, 17739,
17741, 17742, 17748, 17751, and 17752 (MCL 333.17707, 333.17708,
333.17709, 333.17722, 333.17726, 333.17739, 333.17741, 333.17742,
333.17748, 333.17751, and 333.17752), section 17707 as amended by
2016 PA 528, section 17708 as amended by 2016 PA 499, sections
17709 and 17742 as amended by 2014 PA 280, section 17739 as added
by 2014 PA 285, section 17748 as amended by 2015 PA 169, section
17751 as amended by 2017 PA 165, and section 17752 as amended by
2005 PA 73, and by adding sections 17742a and 17742b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17707. (1) **"Parent pharmacy" means a pharmacy that**



1 operates a remote pharmacy through a telepharmacy system.

2 (2) "Personal charge" means the immediate physical presence of
3 a pharmacist or dispensing prescriber.

4 (3) ~~(2)~~—"Pharmacist" means an individual licensed under this
5 article to engage in the practice of pharmacy.

6 (4) ~~(3)~~—"Pharmacist in charge" or "PIC" means the pharmacist
7 who is designated by a pharmacy, manufacturer, or wholesale
8 distributor as its pharmacist in charge under section 17748(2).

9 (5) ~~(4)~~—"Pharmacist intern" or "intern" means an individual
10 who satisfactorily completes the requirements set forth in rules
11 promulgated by the department in consultation with the board and is
12 licensed by the board for the purpose of obtaining instruction in
13 the practice of pharmacy from a preceptor approved by the board.

14 (6) ~~(5)~~—"Pharmacy" means a facility or part of a facility that
15 is licensed under this part to dispense prescription drugs or
16 prepare prescription drugs for delivery or distribution. Pharmacy
17 does not include the office of a dispensing prescriber or an
18 automated device. For the purpose of a duty placed on a pharmacy
19 under this part, "pharmacy" means the person to which the pharmacy
20 license is issued, unless otherwise specifically provided.

21 (7) ~~(6)~~—"Pharmacy technician" means an individual who is
22 required to hold a health profession subfield license under this
23 part to serve as a pharmacy technician.

24 (8) ~~(7)~~—"Practice of pharmacy" means a health service, the
25 clinical application of which includes the encouragement of safety
26 and efficacy in the prescribing, dispensing, administering, and use
27 of drugs and related articles for the prevention of illness, and
28 the maintenance and management of health. Practice of pharmacy
29 includes the direct or indirect provision of professional functions



1 and services associated with the practice of pharmacy. Professional
2 functions associated with the practice of pharmacy include **the**
3 **following:**

4 (a) The interpretation and evaluation of the prescription.

5 (b) Drug product selection.

6 (c) The compounding, dispensing, safe storage, and
7 distribution of drugs and devices.

8 (d) The maintenance of legally required records.

9 (e) Advising the prescriber and the patient as required as to
10 contents, therapeutic action, utilization, and possible adverse
11 reactions or interactions of drugs.

12 Sec. 17708. (1) "Preceptor" means a pharmacist approved by the
13 board to direct the training of an intern in an approved pharmacy.

14 (2) "Prescriber" means a licensed dentist, a licensed doctor
15 of medicine, a licensed doctor of osteopathic medicine and surgery,
16 a licensed doctor of podiatric medicine and surgery, a licensed
17 physician's assistant, a licensed optometrist certified under part
18 174 to administer and prescribe therapeutic pharmaceutical agents,
19 an advanced practice registered nurse as that term is defined in
20 section 17201 who meets the requirements of section 17211a, a
21 licensed veterinarian, or another licensed health professional
22 acting under the delegation and using, recording, or otherwise
23 indicating the name of the delegating licensed doctor of medicine
24 or licensed doctor of osteopathic medicine and surgery.

25 (3) "Prescription" means an order by a prescriber to fill,
26 compound, or dispense a drug or device written and signed; written
27 or created in an electronic format, signed, and transmitted by
28 facsimile; or transmitted electronically or by other means of
29 communication. An order transmitted in other than written or hard-



1 copy form must be electronically recorded, printed, or written and
2 immediately dated by the pharmacist, and that record is considered
3 the original prescription. In a health facility or agency licensed
4 under article 17 or other medical institution, an order for a drug
5 or device in the patient's chart is considered for the purposes of
6 this definition the original prescription. For purposes of this
7 part, prescription also includes a standing order issued under
8 section 17744e. Subject to section 17751(2) and (5), prescription
9 includes, but is not limited to, an order for a drug, not including
10 a controlled substance except under circumstances described in
11 section 17763(e), written and signed; written or created in an
12 electronic format, signed, and transmitted by facsimile; or
13 transmitted electronically or by other means of communication by a
14 physician prescriber, dentist prescriber, or veterinarian
15 prescriber who is licensed to practice dentistry, medicine,
16 osteopathic medicine and surgery, or veterinary medicine in another
17 state.

18 (4) "Prescription drug" means a drug to which 1 or more of the
19 following apply:

20 (a) The drug is dispensed pursuant to a prescription.

21 (b) The drug bears the federal legend "CAUTION: federal law
22 prohibits dispensing without prescription" or "Rx only".

23 (c) The drug is designated by the board as a drug that may
24 only be dispensed pursuant to a prescription.

25 (5) **"Remote pharmacy" means a pharmacy described in sections**
26 **17742a and 17742b.**

27 Sec. 17709. (1) "Sign" means to affix one's signature manually
28 to a document or to use an electronic signature when transmitting a
29 prescription electronically.



1 (2) "Sterile pharmaceutical" means a dosage form of a drug
 2 that is essentially free from living microbes and chemical or
 3 physical contamination to the point at which it poses no present
 4 risk to the patient, in accordance with USP standards. As used in
 5 this subsection, "dosage form" includes, but is not limited to,
 6 parenteral, injectable, and ophthalmic dosage forms.

7 (3) "Substitute" means to dispense, without the prescriber's
 8 authorization, a different drug in place of the drug prescribed.

9 (4) **"Telepharmacy system" means an interoperable computer**
 10 **system that meets all of the following requirements:**

11 (a) **Shares real-time data and uses a real-time audio and video**
 12 **link to connect a pharmacist at a parent pharmacy with a remote**
 13 **pharmacy operated by the parent pharmacy.**

14 (b) **Uses a camera that is of sufficient quality and resolution**
 15 **to allow a pharmacist at a parent pharmacy who is reviewing a**
 16 **prescription to visually identify the markings on tablets and**
 17 **capsules at the remote pharmacy.**

18 (5) ~~(4)~~—"USP standards" means the pharmacopeial standards for
 19 drug substances, dosage forms, and compounded preparations based on
 20 designated levels of risk as published in the official compendium.

21 (6) ~~(5)~~—"Wholesale distributor" means a person, other than a
 22 manufacturer, who supplies, distributes, sells, offers for sale,
 23 barter, or otherwise disposes of, to other persons for resale,
 24 compounding, or dispensing, a drug or device salable on
 25 prescription only that the distributor has not prepared, produced,
 26 derived, propagated, compounded, processed, packaged, or
 27 repackaged, or otherwise changed the container or the labeling of
 28 the drug or device.

29 Sec. 17722. In addition to the functions set forth in part



1 161, **except as otherwise provided in this part**, the board shall:

2 (a) Regulate, control, and inspect the character and standard
3 of pharmacy practice and of drugs and devices manufactured,
4 distributed, prescribed, dispensed, administered, or issued in this
5 state and procure samples and limit or prevent the sale of drugs
6 and devices that do not comply with this part.

7 (b) Prescribe minimum criteria for the use of professional and
8 technical equipment and references in the compounding and
9 dispensing of drugs and devices.

10 (c) Grant a pharmacy license for each separate place of
11 practice in which the compounding or dispensing of prescription
12 drugs or devices, or both, or the receiving of prescription orders
13 in this state is to be conducted.

14 (d) Grant a drug control license for the place of practice of
15 a dispensing prescriber who meets the requirements for the license.

16 (e) Grant a license to a manufacturer or a wholesale
17 distributor of prescription drugs who meets the requirements for
18 the license.

19 Sec. 17726. The department shall issue a ~~license~~**certificate**
20 **of licensure** to an applicant who is granted a license ~~by the~~
21 ~~board~~**under this part**.

22 Sec. 17739. (1) An individual who performs any of the
23 following functions is considered to be serving as a pharmacy
24 technician and, except as otherwise provided in this part, is
25 required to be licensed under this part as a pharmacy technician:

26 (a) Assisting in the dispensing process.

27 (b) Handling transfer of prescriptions, except controlled
28 substances prescriptions.

29 (c) Compounding drugs.



1 (d) Preparing or mixing intravenous drugs for injection into a
2 human patient.

3 (e) Contacting prescribers concerning prescription drug order
4 clarification, which does not include drug regimen review or
5 clinical or therapeutic interpretation.

6 (f) Receiving verbal orders for prescription drugs, except
7 orders for controlled substances.

8 (g) Subject to section 16215, performing any other functions
9 authorized under rules promulgated by the department in
10 consultation with the board.

11 (2) A pharmacy or dispensing prescriber that utilizes the
12 services of a pharmacy technician shall ensure that all of the
13 following requirements, as applicable, are met:

14 (a) The pharmacy technician is licensed or otherwise
15 authorized to serve as a pharmacy technician under this part.

16 (b) The pharmacy technician only performs the activities or
17 functions that he or she is licensed or otherwise authorized to
18 perform under this part or rules promulgated under this part.

19 (c) Except **for a remote pharmacy or** as otherwise provided by
20 rule promulgated by the department in consultation with the board,
21 the pharmacy technician only performs the activities or functions
22 described in subdivision (b) under the supervision and personal
23 charge of the pharmacist or dispensing prescriber.

24 Sec. 17741. (1) A pharmacy shall not be operated unless
25 licensed by this part.

26 (2) ~~A~~**Except for a remote pharmacy,** a pharmacy open for
27 business ~~shall~~**must** be under the personal charge of a pharmacist. A
28 pharmacist shall not simultaneously have personal charge of more
29 than 1 pharmacy.



1 (3) The person to whom a pharmacy license is issued and the
2 pharmacists on duty are responsible for compliance with federal and
3 state laws regulating the distribution of drugs and the practice of
4 pharmacy. ~~Pharmacy~~ **Except for a remote pharmacy, pharmacy** services
5 ~~shall~~ **must** be conducted under the control and personal charge of a
6 pharmacist.

7 (4) ~~(3)~~ A ~~penalty~~ **sanction** for violation of this part ~~does not~~
8 ~~affect~~ **only affects** the pharmacy license of ~~other than~~ the place of
9 business where the violation occurred.

10 Sec. 17742. (1) The board may require an applicant or the
11 holder of a pharmacy, manufacturer's, or wholesale distributor's
12 license to fully disclose the identity of each partner,
13 stockholder, officer, or member of the board of directors of the
14 pharmacy, manufacturer, or wholesale distributor, as applicable.

15 (2) As used in this section and sections **17742a**, 17748,
16 17748a, and 17768, "applicant" means a person applying for a
17 pharmacy, manufacturer's, or wholesale distributor's license under
18 this article. Applicant includes only 1 or more of the following:

19 (a) An individual, if the person applying is an individual.

20 (b) All partners, including limited partners, if the person
21 applying is a partnership.

22 (c) All stockholders, officers, and members of the board of
23 directors, if the person applying is a privately held corporation.

24 **Sec. 17742a. (1) A parent pharmacy shall not operate a remote**
25 **pharmacy in this state unless the parent pharmacy and the remote**
26 **pharmacy are each located in this state and licensed as a pharmacy**
27 **under this part.**

28 (2) **The department shall grant a pharmacy license to an**
29 **applicant seeking to operate a remote pharmacy if the applicant**



1 meets all of the following:

2 (a) Submits a completed application and pays the applicable
3 fee under section 16333.

4 (b) Demonstrates to the satisfaction of the department that
5 the parent pharmacy and the proposed remote pharmacy share common
6 ownership.

7 (c) Subject to subsection (3), demonstrates to the
8 satisfaction of the department that, at the time of the
9 application, the location of the proposed remote pharmacy is not
10 within 10 miles of another pharmacy. This subdivision does not
11 apply if the remote pharmacy is located at a hospital, clinic, or
12 mental health facility.

13 (d) Meets any other requirement for licensure as a pharmacy as
14 established by the department, in consultation with the board, by
15 rule.

16 (3) The department may waive the requirement for licensure
17 described in subsection (2)(c) if the applicant provides
18 satisfactory evidence to the department that the proposed remote
19 pharmacy will be located in an area where there is limited access
20 to pharmacy services and that a compelling circumstance justifies
21 waiving the requirement. In considering whether to grant a waiver
22 under this subsection, the department shall consider each of the
23 following, as applicable, based on the evidence submitted by the
24 applicant:

25 (a) Whether the pharmacy that is located within 10 miles from
26 the proposed remote pharmacy is open for business for limited hours
27 or fewer hours than the proposed remote pharmacy.

28 (b) Whether services will be provided at the proposed remote
29 pharmacy that are not available from the pharmacy that is located



1 within 10 miles from the proposed remote pharmacy.

2 (c) Whether access to the pharmacy that is located within 10
3 miles from the proposed remote pharmacy is limited and whether the
4 proposed remote pharmacy will improve patient access to pharmacy
5 services.

6 (d) Whether there are transportation barriers to receiving
7 services from the pharmacy that is located within 10 miles from the
8 proposed remote pharmacy.

9 (e) Whether the pharmacy that is located within 10 miles from
10 the proposed remote pharmacy is closing.

11 (4) If a pharmacy license is granted to a pharmacy that is
12 located within 10 miles of a remote pharmacy after the remote
13 pharmacy's license is granted or renewed, the remote pharmacy may
14 continue to operate.

15 Sec. 17742b. (1) If a remote pharmacy open for business is not
16 under the personal charge of a pharmacist, the pharmacist in charge
17 of the parent pharmacy shall ensure that the remote pharmacy is
18 staffed by a qualified pharmacy technician who, while assisting in
19 the dispensing process, is overseen through the use of a
20 telepharmacy system by a pharmacist who meets the requirements
21 described in subsection (2).

22 (2) A pharmacist who is located at a parent pharmacy may only
23 oversee the activities at a remote pharmacy if the pharmacist has
24 access to all relevant patient information that is maintained by
25 the parent pharmacy and he or she is employed by or under contract
26 with the parent pharmacy or a pharmacy that has contracted with the
27 parent pharmacy.

28 (3) For purposes of this act, a prescription dispensed under
29 this section, including a prescription for a controlled substance,



1 is considered dispensed at the remote pharmacy by the pharmacist
2 described in subsection (2).

3 (4) The pharmacist in charge of the parent pharmacy shall
4 establish and maintain a written policy and procedure manual that
5 must be made available to the department for inspection upon
6 request and that contains each of the following, subject to this
7 section:

8 (a) A description of how the remote pharmacy will comply with
9 federal and state laws, rules, and regulations.

10 (b) The procedure by which a pharmacist described in
11 subsection (2) oversees a qualified pharmacy technician at the
12 remote pharmacy who is assisting in the dispensing process and the
13 procedure by which the pharmacist provides counseling to patients
14 at the remote pharmacy.

15 (c) The procedure for reviewing each of the following:

16 (i) Subject to section 7321, prescription drug inventory at the
17 remote pharmacy.

18 (ii) Prescriptions or equivalent records approved by the board
19 that are on file at the remote pharmacy.

20 (d) The policy and procedure for providing adequate security
21 to protect the confidentiality and integrity of a patient's
22 protected health information.

23 (e) The procedure for recovering from an event that interrupts
24 or prevents a pharmacist described in subsection (2) from
25 overseeing the operations of the remote pharmacy through the
26 telepharmacy system. The procedure shall require that the remote
27 pharmacy be closed to the public during a time period in which any
28 component of the telepharmacy system is malfunctioning, unless a
29 pharmacist is present at the remote pharmacy during that time



1 period.

2 (f) The procedure for ensuring that a pharmacist described in
3 subsection (2) complies with the electronic system for monitoring
4 schedule 2, 3, 4, and 5 controlled substances established under
5 section 7333a before a controlled substance is dispensed under this
6 section.

7 (g) The specific acts, tasks, and functions that a qualified
8 pharmacy technician may perform at the remote pharmacy. However, a
9 qualified pharmacy technician shall not do any of the following at
10 the remote pharmacy:

11 (i) Receive oral orders for prescription drugs.

12 (ii) Provide consultation regarding a prescription or regarding
13 medical information contained in a patient medication record or
14 patient chart.

15 (iii) Perform compounding of sterile or nonsterile drugs, except
16 for the reconstitution of an orally administered prescription drug.

17 (h) A requirement that a pharmacist described in subsection
18 (2) complete a monthly, in-person inspection of the remote
19 pharmacy.

20 (5) The pharmacist in charge of the parent pharmacy shall
21 display at the remote pharmacy in a conspicuous location, visible
22 to the public, a notice that provides all of the following
23 information:

24 (a) That the pharmacy services are being provided at a remote
25 pharmacy.

26 (b) That if patient counseling is provided, it may be provided
27 by a pharmacist using audio and video communication.

28 (c) The address of the parent pharmacy.

29 (6) A pharmacist described in subsection (2) shall review a



1 prescription as required by state and federal law, rules, and
2 regulations before the drug or device that is the subject of the
3 prescription is dispensed under this section. The pharmacist shall
4 ensure that the pharmacist's and the qualified pharmacy
5 technician's initials or other means of identifying the pharmacist
6 and the qualified pharmacy technician involved in the dispensing
7 process are recorded on the prescription and that the specific
8 acts, tasks, or functions performed by the pharmacist or qualified
9 pharmacy technician during the dispensing process are recorded in
10 the pharmacy management system. When submitting a claim or
11 otherwise seeking reimbursement for a public or private third party
12 payer for a drug or device that is dispensed under this section,
13 the pharmacist shall identify the remote pharmacy as the pharmacy
14 from which the drug or device was dispensed.

15 (7) If a remote pharmacy open for business is not under the
16 personal charge of a pharmacist, any patient counseling that is
17 required by rule must be provided before the drug or device is
18 dispensed at the remote pharmacy and must be provided by a
19 pharmacist described in subsection (2) through the telepharmacy
20 system in a manner that complies with the health insurance
21 portability and accountability act of 1996, Public Law 101-191, or
22 regulations promulgated under that act, 45 CFR parts 160 and 164.

23 (8) If a pharmacist described in subsection (2) is not present
24 at the parent pharmacy, the remote pharmacy must be closed for
25 business unless a pharmacist is present at the remote pharmacy.

26 (9) A remote pharmacy shall not dispense more than 225
27 prescriptions per day.

28 (10) As used in this section, "qualified pharmacy technician"
29 means a pharmacy technician who has at least 1,000 hours of



1 **experience working in a pharmacy and who holds a license other than**
2 **a temporary license under section 17739b or limited license under**
3 **section 17739c.**

4 Sec. 17748. (1) To do business in this state, a pharmacy,
5 manufacturer, or wholesale distributor, whether or not located in
6 this state, must be licensed under this part. To do business in
7 this state, a person that provides compounding services must be
8 licensed as a pharmacy or manufacturer under this part and, if a
9 pharmacy, authorized to provide compounding services under this
10 section and sections 17748a and 17748b. To do business in this
11 state, an outsourcing facility must be licensed as a pharmacy under
12 this part. Licenses are renewable biennially.

13 (2) ~~A~~**Except for a remote pharmacy, a** pharmacy shall designate
14 a pharmacist licensed in this state as the pharmacist in charge for
15 the pharmacy. **For a remote pharmacy, the pharmacist designated as**
16 **the pharmacist in charge of the parent pharmacy shall also serve as**
17 **the pharmacist in charge of the remote pharmacy.** Except as
18 otherwise provided in this subsection, a manufacturer shall
19 designate a pharmacist licensed in or outside of this state as the
20 pharmacist in charge for the manufacturer. Except as otherwise
21 provided in this subsection, a wholesale distributor shall
22 designate a pharmacist licensed in or outside of this state as the
23 pharmacist in charge for the wholesale distributor or shall
24 designate an employee with the appropriate education or experience,
25 or both, to assume responsibility for compliance with licensing
26 requirements as facility manager for the wholesale distributor. The
27 pharmacy, manufacturer, or wholesale distributor and the individual
28 designated as the PIC or facility manager under this subsection are
29 jointly responsible for the pharmacy's, manufacturer's, or



1 wholesale distributor's compliance with this part and rules
 2 promulgated under this part. A person that is a manufacturer or
 3 wholesale distributor with respect to a device salable on
 4 prescription only but not with respect to any drug salable on
 5 prescription only is exempt from this subsection.

6 (3) Subject to this subsection, a pharmacist may be designated
 7 as the PIC for **not** more than ~~1 pharmacy.~~ **3 pharmacies, including**
 8 **remote pharmacies.** A PIC described in this subsection shall work an
 9 average of at least 8 hours per week at each pharmacy for which he
 10 or she is the PIC **unless he or she is serving as the PIC of a**
 11 **remote pharmacy. The PIC of a remote pharmacy is not required to be**
 12 **physically present at the remote pharmacy to satisfy the hour**
 13 **requirement described in this subsection, but may satisfy the**
 14 **requirement through the use of a telepharmacy system.** The pharmacy
 15 and the PIC shall maintain appropriate records and demonstrate
 16 compliance with this subsection upon the request of the board or
 17 its designee.

18 (4) A pharmacy, manufacturer, or wholesale distributor shall
 19 report to the department a change in ownership, management,
 20 location, or its PIC or facility manager designated under
 21 subsection (2) not later than 30 days after the change occurs.

22 (5) A pharmacist designated as the PIC for a pharmacy shall
 23 supervise the practice of pharmacy for the pharmacy. The duties of
 24 the PIC include, but are not limited to, the following:

25 (a) Supervision of all activities of pharmacy employees as
 26 they relate to the practice of pharmacy including the purchasing,
 27 storage, compounding, repackaging, dispensing, and distribution of
 28 drugs and devices to ensure that those activities are performed in
 29 compliance with this part and the rules promulgated under this



1 part.

2 (b) Enforcement and oversight of policies and procedures
3 applicable to the employees of the pharmacy for the procurement,
4 storage, compounding, and dispensing of drugs and the communication
5 of information to the patient in relation to drug therapy.

6 (c) Establishment and supervision of the method and manner for
7 storage and safekeeping of pharmaceuticals, including maintenance
8 of security provisions to be used when the pharmacy is closed.

9 (d) Establishment and supervision of the record-keeping system
10 for the purchase, sale, delivery, possession, storage, and
11 safekeeping of drugs and devices.

12 (e) Establishment of policies and procedures for individuals
13 who are delegated responsibilities for any of the tasks described
14 in this subsection by the PIC.

15 (6) Except as otherwise provided in subsection (8),
16 fingerprints for the following individuals shall be submitted with
17 an application for a new pharmacy, manufacturer, or wholesale
18 distributor license in the same manner as required in section 16174
19 for the purpose of a criminal history check:

20 (a) If the application is from an individual, who is not a
21 health professional licensed or otherwise authorized to engage in a
22 health profession under this article or who is a health
23 professional but was licensed or otherwise authorized to engage in
24 his or her health profession under this article before October 1,
25 2008, fingerprints for that individual.

26 (b) If the application is from a partnership, fingerprints for
27 all partners and any individual who will manage the day-to-day
28 operations of the new pharmacy, manufacturer, or wholesale
29 distributor.



1 (c) If the application is from a privately held corporation,
2 fingerprints for any individual who will manage the day-to-day
3 operations of the new pharmacy, manufacturer, or wholesale
4 distributor. This subdivision only applies to a privately held
5 corporation that in the aggregate owns fewer than 75 pharmacies,
6 manufacturers, or wholesale distributors on the date the
7 corporation submits its license application.

8 (7) The board, department, and department of state police
9 shall conduct the criminal history check on the individuals
10 described in subsection (6) in the same manner as described in
11 section 16174.

12 (8) Subsection (6) does not apply if a criminal history check
13 that meets the requirements of section 16174 has been obtained for
14 the individuals described in subsection (6) within the 2 years
15 preceding the date of the application for a new pharmacy,
16 manufacturer, or wholesale distributor license under this part. To
17 qualify for the exception under this subsection, an applicant shall
18 submit proof of the previous criminal history check for each
19 individual described in subsection (6), as applicable, with the
20 application for a new pharmacy, manufacturer, or wholesale
21 distributor license under this part. If the department or board
22 determines that a criminal history check for an individual
23 described in subsection (6) does not meet the requirements of
24 section 16174 or was not obtained within the time period
25 prescribed, fingerprints ~~shall~~**must** be submitted for the individual
26 as required under subsection (6).

27 (9) If, as authorized or required under this article, the
28 department inspects or investigates an applicant for a new pharmacy
29 license for a pharmacy that will provide compounding services or a



1 compounding pharmacy, and the applicant or compounding pharmacy is
 2 located outside of this state, the applicant or compounding
 3 pharmacy shall reimburse the department for its expenses incurred
 4 in carrying out its authority or duty to inspect or investigate the
 5 applicant or licensee under this article.

6 Sec. 17751. (1) A pharmacist shall not dispense a drug
 7 requiring a prescription under the federal act or a law of this
 8 state except under authority of an original prescription or an
 9 equivalent record of an original prescription approved by the
 10 board. **A pharmacist described in section 17742b(2) may dispense a**
 11 **drug pursuant to an original prescription received at a remote**
 12 **pharmacy if the pharmacist receives, reviews, and verifies an exact**
 13 **digital image of the prescription received at the remote pharmacy**
 14 **before the drug is dispensed at the remote pharmacy.**

15 (2) Subject to ~~subsection~~**subsections (1) and (5)**, a
 16 pharmacist may dispense a prescription written and signed; written
 17 or created in an electronic format, signed, and transmitted by
 18 facsimile; or transmitted electronically or by other means of
 19 communication by a physician prescriber, dentist prescriber, or
 20 veterinarian prescriber in another state, but not including a
 21 prescription for a controlled substance except under circumstances
 22 described in section 17763(e), only if the pharmacist in the
 23 exercise of his or her professional judgment determines all of the
 24 following:

25 (a) Except as otherwise authorized under section 5110, 17744a,
 26 or 17744b, if the prescriber is a physician or dentist, that the
 27 prescription was issued pursuant to an existing physician-patient
 28 or dentist-patient relationship.

29 (b) That the prescription is authentic.



1 (c) That the prescribed drug is appropriate and necessary for
2 the treatment of an acute, chronic, or recurrent condition.

3 (3) A pharmacist or a prescriber shall dispense a prescription
4 only if the prescription falls within the scope of practice of the
5 prescriber.

6 (4) A pharmacist shall not knowingly dispense a prescription
7 after the death of the prescriber or patient.

8 (5) A pharmacist shall not dispense a drug or device under a
9 prescription transmitted by facsimile or created in electronic
10 format and printed out for use by the patient unless the document
11 is manually signed by the prescriber. This subsection does not
12 apply to ~~a~~**any of the following:**

13 (a) A prescription that is transmitted by a computer to a
14 facsimile machine if that prescription complies with section 17754.

15 (b) **A prescription that is received by a remote pharmacy and
16 made available to a pharmacist described in section 17742b(2) for
17 review and verification in the manner required under subsection
18 (1).**

19 (6) After consultation with and agreement from the prescriber,
20 a pharmacist may add or change a patient's address, a dosage form,
21 a drug strength, a drug quantity, a direction for use, or an issue
22 date with regard to a prescription. A pharmacist shall note the
23 details of the consultation and agreement required under this
24 subsection on the prescription **or, if the drug is dispensed at a
25 remote pharmacy, on the digital image of the prescription described
26 in subsection (1)**, and shall maintain that documentation with the
27 prescription as required in section 17752. A pharmacist shall not
28 change the patient's name, controlled substance prescribed unless
29 authorized to dispense a lower cost generically equivalent drug



1 product under section 17755, or the prescriber's signature with
2 regard to a prescription.

3 (7) A prescription that is contained within a patient's chart
4 in a health facility or agency licensed under article 17 or other
5 medical institution and that is transmitted to a pharmacy under
6 section 17744 is the original prescription. If all other
7 requirements of this part are met, a pharmacist shall dispense a
8 drug or device under a prescription described in this subsection. A
9 pharmacist may dispense a drug or device under a prescription
10 described in this subsection even if the prescription does not
11 contain the quantity ordered. If a prescription described in this
12 subsection does not contain the quantity ordered, the pharmacist
13 shall consult with the prescriber to determine an agreed-upon
14 quantity. The pharmacist shall record the quantity dispensed on the
15 prescription and shall maintain that documentation with the
16 prescription as required in section 17752.

17 (8) If, after consulting with a patient, a pharmacist
18 determines in the exercise of his or her professional judgment that
19 dispensing additional quantities of a prescription drug is
20 appropriate for the patient, the pharmacist may dispense, at one
21 time, additional quantities of the prescription drug up to the
22 total number of dosage units authorized by the prescriber on the
23 original prescription for the patient and any refills of the
24 prescription. Except for a controlled substance included in
25 schedule 5 that does not contain an opioid, this subsection does
26 not apply to a prescription for a controlled substance.

27 Sec. 17752. (1) A prescription, or an equivalent record of the
28 prescription approved by the board, shall be preserved by a
29 licensee or dispensing prescriber for not less than 5 years.



1 (2) A prescription or equivalent record on file in a pharmacy
2 is not a public record. A person having custody of or access to
3 prescriptions shall not disclose their contents or provide copies
4 without the patient's authorization, to any person except to any of
5 the following:

6 (a) The patient for whom the prescription was issued, or
7 another pharmacist acting on behalf of the patient.

8 (b) The authorized prescriber who issued the prescription, or
9 a licensed health professional who is currently treating the
10 patient.

11 (c) An agency or agent of government responsible for the
12 enforcement of laws relating to drugs and devices.

13 (d) A person authorized by a court order.

14 (e) A person engaged in research projects or studies with
15 protocols approved by the board.

16 (3) A pharmacist may refill a copy of a prescription from
17 another pharmacy if the original prescription has remaining
18 authorized refills, and the copy is issued according to the
19 following procedure:

20 (a) The pharmacist issuing a written or oral copy of a
21 prescription shall cancel the original prescription and record the
22 cancellation. The record of cancellation ~~shall~~**must** include the
23 date the copy was issued, to whom issued, and the identification of
24 the pharmacist who issued the copy.

25 (b) The written or oral copy issued ~~shall~~**must** be a duplicate
26 of the original prescription except that it ~~shall~~**must** also include
27 the prescription number, the name of the pharmacy issuing the copy,
28 the date the copy was issued, and the number of authorized refills
29 remaining available to the patient.



1 (c) The pharmacist receiving a written or oral copy of the
2 prescription shall exercise reasonable diligence to determine
3 whether it is a valid copy, and having done so may treat the copy
4 as an original prescription.

5 (d) Except as described in this part, all other copies
6 furnished ~~shall~~**must** be used for information purposes only and
7 clearly marked "for informational or reference purposes only".

8 (4) Subsection (3) does not apply to ~~pharmacies~~**any of the**
9 **following:**

10 (a) **Pharmacies** that share a real-time, on-line database or
11 other equivalent means of communication. ~~or to pharmacies~~

12 (b) **Pharmacies** that transfer prescriptions pursuant to a
13 written contract for centralized prescription processing services
14 as provided under section 17753.

15 (c) **A parent pharmacy if the parent pharmacy receives a copy**
16 **of a prescription from a remote pharmacy that it operates.**

17 (d) **A remote pharmacy if the remote pharmacy receives a copy**
18 **of a prescription from a parent pharmacy.**

19 (5) For purposes of this section, "equivalent record of the
20 prescription approved by the board" or "equivalent record" includes
21 a digital image described in section 17751(1).

