

**HOUSE 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, 17752, and 17768 (MCL 333.17707,
333.17708, 333.17709, 333.17722, 333.17726, 333.17739, 333.17741,
333.17742, 333.17748, 333.17751, 333.17752, and 333.17768), 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, section 17752 as
amended by 2005 PA 73, and section 17768 as amended by 2014 PA 413,
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**
2 **operates a remote pharmacy through a telepharmacy system.**

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

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

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

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

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

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

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



1 includes the direct or indirect provision of professional functions
 2 and services associated with the practice of pharmacy. Professional
 3 functions associated with the practice of pharmacy include **the**
 4 **following:**

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

6 (b) Drug product selection.

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

9 (d) The maintenance of legally required records.

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

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

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

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



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

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

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

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

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

26 (5) "Remote pharmacy" means a pharmacy described in sections
27 17742a and 17742b.

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



1 prescription electronically.

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

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

10 (4) "Surveillance system" means a real-time, continuous audio
11 and visual camera system that connects a pharmacist at a parent
12 pharmacy with a remote pharmacy for the purposes of providing
13 oversight and security surveillance.

14 (5) "Telepharmacy system" means an interoperable computer
15 system that meets all of the following requirements:

16 (a) Shares real-time data and uses a real-time audio and video
17 link to connect a pharmacist at a parent pharmacy with a remote
18 pharmacy operated by the parent pharmacy.

19 (b) Uses a camera that is of sufficient quality and resolution
20 to allow a pharmacist at a parent pharmacy who is reviewing a
21 prescription to visually identify the markings on tablets and
22 capsules at the remote pharmacy.

23 (6) ~~(4)~~—"USP standards" means the pharmacopeial standards for
24 drug substances, dosage forms, and compounded preparations based on
25 designated levels of risk as published in the official compendium.

26 (7) ~~(5)~~—"Wholesale distributor" means a person, other than a
27 manufacturer, who supplies, distributes, sells, offers for sale,
28 barter, or otherwise disposes of, to other persons for resale,
29 compounding, or dispensing, a drug or device salable on



1 prescription only that the distributor has not prepared, produced,
 2 derived, propagated, compounded, processed, packaged, or
 3 repackaged, or otherwise changed the container or the labeling of
 4 the drug or device.

5 Sec. 17722. In addition to the functions set forth in part
 6 161, **except as otherwise provided in this part**, the board shall:

7 (a) Regulate, control, and inspect the character and standard
 8 of pharmacy practice and of drugs and devices manufactured,
 9 distributed, prescribed, dispensed, administered, or issued in this
 10 state and procure samples and limit or prevent the sale of drugs
 11 and devices that do not comply with this part.

12 (b) Prescribe minimum criteria for the use of professional and
 13 technical equipment and references in the compounding and
 14 dispensing of drugs and devices.

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

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

21 (e) Grant a license to a manufacturer or a wholesale
 22 distributor of prescription drugs who meets the requirements for
 23 the license.

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

27 Sec. 17739. (1) An individual who performs any of the
 28 following functions is considered to be serving as a pharmacy
 29 technician and, except as otherwise provided in this part, is



1 required to be licensed under this part as a pharmacy technician:

2 (a) Assisting in the dispensing process.

3 (b) Handling transfer of prescriptions, except controlled
4 substances prescriptions.

5 (c) Compounding drugs.

6 (d) Preparing or mixing intravenous drugs for injection into a
7 human patient.

8 (e) Contacting prescribers concerning prescription drug order
9 clarification, which does not include drug regimen review or
10 clinical or therapeutic interpretation.

11 (f) Receiving verbal orders for prescription drugs, except
12 orders for controlled substances.

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

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

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

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

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

29 Sec. 17741. (1) A pharmacy ~~shall~~**must** not be operated unless



1 licensed ~~by~~**under** this part.

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

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

12 (4) ~~(3)~~~~A~~ ~~penalty~~**sanction** for a violation of this part ~~does~~
13 ~~not affect~~**only affects** the pharmacy license of ~~other than the~~
14 place of business where the violation occurred.

15 Sec. 17742. (1) The board may require an applicant or the
16 holder of a pharmacy, manufacturer's, or wholesale distributor's
17 license to fully disclose the identity of each partner,
18 stockholder, officer, or member of the board of directors of the
19 pharmacy, manufacturer, or wholesale distributor, as applicable.

20 (2) As used in this section and sections **17742a**, 17748,
21 17748a, and 17768, "applicant" means a person applying for a
22 pharmacy, manufacturer's, or wholesale distributor's license under
23 this article. Applicant includes only 1 or more of the following:

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

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

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

29 **Sec. 17742a. (1) A parent pharmacy shall not operate a remote**



1 pharmacy in this state unless the parent pharmacy and the remote
2 pharmacy are each located in this state and licensed as a pharmacy
3 under this part.

4 (2) The department shall grant a pharmacy license to an
5 applicant seeking to operate a remote pharmacy if the applicant
6 meets all of the following:

7 (a) Submits a completed application and pays the applicable
8 fee under section 16333.

9 (b) Demonstrates to the satisfaction of the department that
10 the parent pharmacy and the proposed remote pharmacy share common
11 ownership.

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

18 (d) Meets any other requirement for licensure as a pharmacy as
19 established by the department, in consultation with the board, by
20 rule.

21 (3) An applicant seeking a pharmacy license under subsection
22 (2) may apply to the board for a waiver of the mileage requirement
23 described in subsection (2)(c). The board shall only grant a
24 request for a waiver if the applicant demonstrates to the
25 satisfaction of the board that the location of the proposed remote
26 pharmacy is in an area where there is limited access to pharmacy
27 services and that there are compelling circumstances that justify
28 waiving the requirement.

29 (4) If a pharmacy license is granted to a pharmacy that is



1 located within 10 miles of a remote pharmacy after the remote
2 pharmacy's license is granted or renewed, the remote pharmacy may
3 continue to operate.

4 Sec. 17742b. (1) If a remote pharmacy open for business is not
5 under the personal charge of a pharmacist, the pharmacist in charge
6 of the parent pharmacy shall ensure that the remote pharmacy is
7 staffed by a qualified pharmacy technician who, while assisting in
8 the dispensing process, is overseen through the use of a
9 surveillance system and a telepharmacy system by a pharmacist who
10 meets the requirements described in subsection (2).

11 (2) Subject to subsection (10), a pharmacist who is located at
12 a parent pharmacy may only oversee the activities at a remote
13 pharmacy if the pharmacist has access to all relevant patient
14 information that is maintained by the parent pharmacy and he or she
15 is employed by or under contract with the parent pharmacy or a
16 pharmacy that has contracted with the parent pharmacy.

17 (3) For purposes of this act, a prescription dispensed under
18 this section, including a prescription for a controlled substance,
19 is considered dispensed at the remote pharmacy by the pharmacist
20 described in subsection (2).

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

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

28 (b) The procedure by which a pharmacist described in
29 subsection (2) oversees a qualified pharmacy technician at the



1 remote pharmacy who is assisting in the dispensing process and the
2 procedure by which the pharmacist provides counseling to patients
3 at the remote pharmacy.

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

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

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

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

12 (e) The procedure for recovering from an event that interrupts
13 or prevents a pharmacist described in subsection (2) from
14 overseeing the operations of the remote pharmacy through the
15 surveillance system or telepharmacy system. The procedure must
16 require that the remote pharmacy be closed to the public during a
17 time period in which any component of the surveillance system or
18 telepharmacy system is malfunctioning, unless a pharmacist is
19 present at the remote pharmacy during that time period.

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

25 (g) The specific acts, tasks, and functions that a qualified
26 pharmacy technician may perform at the remote pharmacy. However, a
27 qualified pharmacy technician shall not do any of the following at
28 the remote pharmacy:

29 (i) Provide consultation regarding a prescription or regarding



1 medical information contained in a patient medication record or
2 patient chart.

3 (ii) Perform compounding of sterile or nonsterile drugs, except
4 for the reconstitution of prepackaged prescription drugs.

5 (h) A requirement that a pharmacist described in subsection
6 (2) complete a monthly, in-person inspection of the remote pharmacy
7 that includes, at a minimum, conducting inventory reconciliation
8 for controlled substances and reviewing any video recording from
9 the surveillance system that the pharmacist considers necessary.

10 (i) A policy that requires the pharmacist described in
11 subsection (2) to retain audio and video recordings from the
12 surveillance system for at least 45 calendar days.

13 (5) The pharmacist in charge of the parent pharmacy shall
14 display at the remote pharmacy in a conspicuous location, visible
15 to the public, a notice that provides all of the following
16 information:

17 (a) That the pharmacy services are being provided at a remote
18 pharmacy.

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

21 (c) The address of the parent pharmacy.

22 (6) A pharmacist described in subsection (2) shall review a
23 prescription as required by state and federal law, rules, and
24 regulations before the drug or device that is the subject of the
25 prescription is dispensed under this section. The pharmacist shall
26 ensure that the pharmacist's and the qualified pharmacy
27 technician's initials or other means of identifying the pharmacist
28 and the qualified pharmacy technician involved in the dispensing
29 process are recorded on the prescription and that the specific



1 acts, tasks, or functions performed by the pharmacist or qualified
2 pharmacy technician during the dispensing process are recorded in
3 the pharmacy management system. When submitting a claim or
4 otherwise seeking reimbursement for a public or private third party
5 payer for a drug or device that is dispensed under this section,
6 the pharmacist shall identify the remote pharmacy as the pharmacy
7 from which the drug or device was dispensed.

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

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

19 (9) A remote pharmacy shall not dispense more than an average
20 of 150 prescriptions per day during a 90-day period.

21 (10) A pharmacist described in subsection (2) shall not
22 simultaneously oversee the activities of 3 or more remote
23 pharmacies.

24 (11) As used in this section, "qualified pharmacy technician"
25 means a pharmacy technician who meets all of the following
26 requirements:

27 (a) He or she holds a pharmacy technician license other than a
28 temporary license under section 17739b or limited license under
29 section 17739c.



1 (b) He or she has accumulated at least 1,000 hours of
 2 experience working in a pharmacy after he or she was granted a
 3 temporary pharmacy technician license under section 17739b, a
 4 limited pharmacy technician license under section 17739c, or a
 5 pharmacy technician license under section 17739a.

6 (c) He or she holds a national certification as a pharmacy
 7 technician from an organization approved by the board.

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

17 (2) ~~A-Except for a remote pharmacy,~~ a pharmacy shall designate
 18 a pharmacist licensed in this state as the pharmacist in charge for
 19 the pharmacy. **For a remote pharmacy, the pharmacist designated as**
 20 **the pharmacist in charge of the parent pharmacy shall also serve as**
 21 **the pharmacist in charge of the remote pharmacy.** Except as
 22 otherwise provided in this subsection, a manufacturer shall
 23 designate a pharmacist licensed in or outside of this state as the
 24 pharmacist in charge for the manufacturer **or, if the manufacturer**
 25 **does not hold a license as a pharmacy, shall designate an employee**
 26 **with the appropriate education or experience, or both, to assume**
 27 **responsibility for compliance with licensing requirements as**
 28 **facility manager for the manufacturer.** Except as otherwise provided
 29 in this subsection, a wholesale distributor shall designate a



1 pharmacist licensed in or outside of this state as the pharmacist
 2 in charge for the wholesale distributor or shall designate an
 3 employee with the appropriate education or experience, or both, to
 4 assume responsibility for compliance with licensing requirements as
 5 facility manager for the wholesale distributor. The pharmacy,
 6 manufacturer, or wholesale distributor and the individual
 7 designated as the PIC or facility manager under this subsection are
 8 jointly responsible for the pharmacy's, manufacturer's, or
 9 wholesale distributor's compliance with this part and rules
 10 promulgated under this part. A person that is a manufacturer or
 11 wholesale distributor with respect to a device salable on
 12 prescription only but not with respect to any drug salable on
 13 prescription only is exempt from this subsection.

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

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



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

4 (a) Supervision of all activities of pharmacy employees as
5 they relate to the practice of pharmacy including the purchasing,
6 storage, compounding, repackaging, dispensing, and distribution of
7 drugs and devices to ensure that those activities are performed in
8 compliance with this part and the rules promulgated under this
9 part.

10 (b) Enforcement and oversight of policies and procedures
11 applicable to the employees of the pharmacy for the procurement,
12 storage, compounding, and dispensing of drugs and the communication
13 of information to the patient in relation to drug therapy.

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

17 (d) Establishment and supervision of the record-keeping system
18 for the purchase, sale, delivery, possession, storage, and
19 safekeeping of drugs and devices.

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

23 (6) Except as otherwise provided in subsection (8),
24 fingerprints for the following individuals ~~shall~~**must** be submitted
25 with an application for a new pharmacy, manufacturer, or wholesale
26 distributor license in the same manner as required in section 16174
27 for the purpose of a criminal history check:

28 (a) If the application is from an individual, who is not a
29 health professional licensed or otherwise authorized to engage in a



1 health profession under this article or who is a health
2 professional but was licensed or otherwise authorized to engage in
3 his or her health profession under this article before October 1,
4 2008, fingerprints for that individual.

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

9 (c) If the application is from a privately held corporation,
10 fingerprints for any individual who will manage the day-to-day
11 operations of the new pharmacy, manufacturer, or wholesale
12 distributor. This subdivision only applies to a privately held
13 corporation that in the aggregate owns fewer than 75 pharmacies,
14 manufacturers, or wholesale distributors on the date the
15 corporation submits its license application.

16 (7) The board, department, and department of state police
17 shall conduct the criminal history check on the individuals
18 described in subsection (6) in the same manner as described in
19 section 16174.

20 (8) Subsection (6) does not apply if a criminal history check
21 that meets the requirements of section 16174 has been obtained for
22 the individuals described in subsection (6) within the 2 years
23 preceding the date of the application for a new pharmacy,
24 manufacturer, or wholesale distributor license under this part. To
25 qualify for the exception under this subsection, an applicant shall
26 submit proof of the previous criminal history check for each
27 individual described in subsection (6), as applicable, with the
28 application for a new pharmacy, manufacturer, or wholesale
29 distributor license under this part. If the department or board



1 determines that a criminal history check for an individual
 2 described in subsection (6) does not meet the requirements of
 3 section 16174 or was not obtained within the time period
 4 prescribed, fingerprints ~~shall~~**must** be submitted for the individual
 5 as required under subsection (6).

6 (9) If, as authorized or required under this article, the
 7 department inspects or investigates an applicant for a new pharmacy
 8 license for a pharmacy that will provide compounding services or a
 9 compounding pharmacy, and the applicant or compounding pharmacy is
 10 located outside of this state, the applicant or compounding
 11 pharmacy shall reimburse the department for its expenses incurred
 12 in carrying out its authority or duty to inspect or investigate the
 13 applicant or licensee under this article.

14 Sec. 17751. (1) A pharmacist shall not dispense a drug
 15 requiring a prescription under the federal act or a law of this
 16 state except under authority of an original prescription or an
 17 equivalent record of an original prescription approved by the
 18 board. **A pharmacist described in section 17742b(2) may dispense a**
 19 **drug pursuant to an original prescription received at a remote**
 20 **pharmacy if the pharmacist receives, reviews, and verifies an exact**
 21 **digital image of the prescription received at the remote pharmacy**
 22 **before the drug is dispensed at the remote pharmacy.**

23 (2) Subject to ~~subsection~~**subsections (1) and (5)**, a
 24 pharmacist may dispense a prescription written and signed; written
 25 or created in an electronic format, signed, and transmitted by
 26 facsimile; or transmitted electronically or by other means of
 27 communication by a physician prescriber, dentist prescriber, or
 28 veterinarian prescriber in another state, but not including a
 29 prescription for a controlled substance except under circumstances



1 described in section 17763(e), only if the pharmacist in the
2 exercise of his or her professional judgment determines all of the
3 following:

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

8 (b) That the prescription is authentic.

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

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

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

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

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

23 (b) **A prescription that is received by a remote pharmacy and**
24 **made available to a pharmacist described in section 17742b(2) for**
25 **review and verification in the manner required under subsection**
26 **(1).**

27 (6) After consultation with and agreement from the prescriber,
28 a pharmacist may add or change a patient's address, a dosage form,
29 a drug strength, a drug quantity, a direction for use, or an issue



1 date with regard to a prescription. A pharmacist shall note the
2 details of the consultation and agreement required under this
3 subsection on the prescription **or, if the drug is dispensed at a**
4 **remote pharmacy, on the digital image of the prescription described**
5 **in subsection (1)**, and shall maintain that documentation with the
6 prescription as required in section 17752. A pharmacist shall not
7 change the patient's name, controlled substance prescribed unless
8 authorized to dispense a lower cost generically equivalent drug
9 product under section 17755, or the prescriber's signature with
10 regard to a prescription.

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

25 (8) If, after consulting with a patient, a pharmacist
26 determines in the exercise of his or her professional judgment that
27 dispensing additional quantities of a prescription drug is
28 appropriate for the patient, the pharmacist may dispense, at one
29 time, additional quantities of the prescription drug up to the



1 total number of dosage units authorized by the prescriber on the
2 original prescription for the patient and any refills of the
3 prescription. Except for a controlled substance included in
4 schedule 5 that does not contain an opioid, this subsection does
5 not apply to a prescription for a controlled substance.

6 Sec. 17752. (1) A **licensee or dispensing prescriber shall**
7 **preserve a** prescription, or an equivalent record of the
8 prescription approved by the board, ~~shall be preserved by a~~
9 ~~licensee or dispensing prescriber~~ for not less than 5 years.

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

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

17 (b) The authorized prescriber who issued the prescription, or
18 a licensed health professional who is currently treating the
19 patient.

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

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

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

25 (3) A pharmacist may refill a copy of a prescription from
26 another pharmacy if the original prescription has remaining
27 authorized refills, and the copy is issued according to the
28 following procedure:

29 (a) The pharmacist issuing a written or oral copy of a



1 prescription shall cancel the original prescription and record the
 2 cancellation. The record of cancellation ~~shall~~**must** include the
 3 date the copy was issued, to whom issued, and the identification of
 4 the pharmacist who issued the copy.

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

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

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

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

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

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

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

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

28 (5) For purposes of this section, "equivalent record of the
 29 prescription approved by the board" or "equivalent record" includes



1 **a digital image described in section 17751(1).**

2 Sec. 17768. (1) In a manner consistent with part 161, the
3 disciplinary subcommittee may fine, reprimand, or place on
4 probation a person licensed under this part, may deny, limit,
5 suspend, or revoke a person's license, or may order restitution or
6 community service for a violation of this part or rules promulgated
7 under this part.

8 (2) In addition to the grounds set forth in subsection (1),
9 and in a manner consistent with part 161, the board may fine,
10 reprimand, or place on probation a person licensed under this part,
11 may deny, limit, suspend, or revoke a license issued under this
12 part, or may order restitution or community service if the board
13 finds that any of the following apply to an applicant; a partner,
14 officer, or member of the board of directors of a pharmacy,
15 manufacturer, or wholesale distributor licensed under this part; a
16 stockholder of a pharmacy, manufacturer, or wholesale distributor
17 that is a privately held corporation licensed under this part; or a
18 facility manager for a **manufacturer or** wholesale distributor
19 designated under section 17748(2):

20 (a) The applicant or other person described in this subsection
21 lacks good moral character.

22 (b) Subject to subsection (3), the applicant or other person
23 described in this subsection has been convicted of a misdemeanor or
24 a felony under a state or federal law relating to a controlled
25 substance or the practice of pharmacy.

26 (c) The applicant or other person described in this subsection
27 has furnished false or fraudulent material information or has
28 knowingly omitted material information in an application filed
29 under this part.



1 (d) The applicant or other person described in this subsection
2 has maintained a financial interest in a pharmacy, manufacturer, or
3 wholesale distributor that has been denied a license or federal
4 registration, has had its license or federal registration limited,
5 suspended, or revoked, or has been subject to any other criminal,
6 civil, or administrative penalty.

7 (e) The applicant or other person described in this subsection
8 is not in compliance with article 7 or article 8 or the rules
9 promulgated under article 7 or article 8.

10 (f) The applicant or other person described in this subsection
11 has violated section 17748.

12 (3) Except for a conviction for a misdemeanor under section
13 7404(2) (d) or a local ordinance that is substantially similar to
14 section 7404(2) (d), the reference to a misdemeanor in subsection
15 (2) (b) applies only to a conviction for a misdemeanor that is
16 directly related to the manufacture, delivery, possession,
17 possession with intent to manufacture or deliver, use,
18 distribution, prescription, or dispensing of a controlled
19 substance. Subsection (2) (b) does not apply to a conviction for a
20 misdemeanor based ~~upon~~**on** an unintentional error or omission
21 involving a clerical or record-keeping function.

