

# HOUSE BILL No. 5427

January 30, 1990, Introduced by Rep. Bryant and referred to the Committee on Public Health.

A bill to amend section 7311 of Act No. 368 of the Public Acts of 1978, entitled as amended  
"Public health code,"

as amended by Act No. 30 of the Public Acts of 1988, being section 333.7311 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 7311 of Act No. 368 of the Public Acts  
2 of 1978, as amended by Act No. 30 of the Public Acts of 1988,  
3 being section 333.7311 of the Michigan Compiled Laws, is amended  
4 to read as follows:

5       Sec. 7311. (1) A license under section 7306 to manufacture,  
6 distribute, prescribe, or dispense a controlled substance may be  
7 denied, suspended, or revoked by the administrator upon a finding  
8 that an applicant for licensure or a licensee is subject to any  
9 of the following:

1 (a) The applicant or licensee has furnished false or  
2 fraudulent material information in an application filed under  
3 this article.

4 (b) The applicant's or licensee's federal registration to  
5 manufacture, distribute, or dispense controlled substances has  
6 been surrendered, suspended, or revoked.

7 (c) The applicant or licensee has promoted a controlled sub-  
8 stance to the general public.

9 (d) The applicant or licensee is not a practitioner, manu-  
10 facturer, or distributor.

11 (e) The applicant or licensee has not maintained effective  
12 controls against diversion of controlled substances to other than  
13 legitimate and professionally recognized therapeutic, scientific,  
14 or industrial uses.

15 (f) The applicant or licensee is not in compliance with  
16 applicable federal, state, and local laws.

17 (g) The applicant or licensee has manufactured, distributed,  
18 or dispensed a controlled substance for other than legitimate or  
19 professionally recognized therapeutic, scientific, or industrial  
20 purposes or outside the scope of practice of the  
21 practitioner-licensee or applicant.

22 (h) The applicant or licensee has violated or attempted to  
23 violate, directly or indirectly, assisted in or abetted the vio-  
24 lation of, or conspired to violate this article or rules of the  
25 administrator promulgated under this article.

26 (2) The administrator may limit revocation or suspension of  
27 a license under subsection (1) to the particular controlled

1 substance OR TO A SCHEDULE OF CONTROLLED SUBSTANCES as to which  
2 grounds for revocation or suspension exist. IN ADDITION, THE  
3 ADMINISTRATOR MAY REQUIRE THE LICENSEE TO USE A TRIPLICATE PRE-  
4 SCRIPTION FORM PROVIDED BY THE DEPARTMENT WHEN PRESCRIBING THE  
5 PARTICULAR CONTROLLED SUBSTANCE OR SCHEDULE OF CONTROLLED SUB-  
6 STANCES AS TO WHICH GROUNDS FOR REVOCATION EXIST. THE ADMINIS-  
7 TRATOR, IN CONJUNCTION WITH THE DEPARTMENT, SHALL PROMULGATE  
8 RULES TO PROVIDE FOR THE DISTRIBUTION AND USE OF THE TRIPLICATE  
9 PRESCRIPTION FORM DESCRIBED IN THIS SUBSECTION.

10 (3) A license under section 7306 to manufacture, distribute,  
11 prescribe, or dispense a controlled substance shall be denied or  
12 revoked by the administrator if the applicant or licensee has  
13 been convicted of a felony under a state or federal law relating  
14 to a controlled substance.

15 (4) If the administrator suspends or revokes a license, all  
16 controlled substances owned or possessed by the licensee at the  
17 time of suspension or the effective date of the revocation order  
18 may be placed under seal or seized at the discretion of the  
19 administrator. A disposition may not be made of substances under  
20 seal or seizure until the time for taking an appeal has elapsed  
21 or until all appeals have been concluded, unless a court, upon  
22 application therefor, orders the sale of perishable substances  
23 and the deposit of the proceeds of the sale with the court. Upon  
24 a revocation order becoming final, all controlled substances may  
25 be forfeited to this state.

1 (5) The administrator shall promptly notify the bureau of  
2 all orders suspending or revoking a license and all forfeitures  
3 of controlled substances.

4 (6) A license under section 7306 to manufacture, distribute,  
5 prescribe, or dispense a controlled substance shall be suspended  
6 or revoked by the administrator upon receipt of notice from the  
7 appropriate licensing board that a licensee's license to practice  
8 a health care profession under article 15 has been suspended or  
9 revoked.

10 (7) Subject to subsection (8), if the administrator finds  
11 that an applicant or licensee has been convicted of a misdemeanor  
12 or a felony under a state or federal law relating to a controlled  
13 substance, the applicant or licensee shall not have a direct  
14 financial interest in, or be employed in a capacity in which the  
15 individual has direct access to controlled substances by, a  
16 person who is licensed under this article to manufacture, dis-  
17 tribute, prescribe, or dispense a controlled substance for a  
18 period of not less than 3 years after the date of conviction. An  
19 individual who violates this subsection may be punished by a  
20 civil fine of not more than \$25,000.00 in a proceeding in the  
21 circuit court.

22 (8) Subsection (7) applies only to a conviction for a misde-  
23 meanor which is directly related to the manufacture, delivery,  
24 possession, possession with intent to manufacture or deliver,  
25 use, distribution, prescription, or dispensing of a controlled  
26 substance. Subsection (7) does not apply to a conviction for a

- 1 misdemeanor based upon an unintentional error or omission
- 2 involving a clerical or record-keeping function.